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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA, : Cr. 08-76
v. : U.S. Courthouse
CHARLES CARNEGLIA, Brooklyn, New York
a/k/a: "Charlie Canig" :
Defendant. : February 23, 2009
9:30 a.m.

TRANSCRIPT OF TRIAL
BEFORE THE HONORABLE JACK B. WEINSTEIN
UNITED STATES DISTRICT JUDGE, and a jury.

APPEARANCES:

For the Government: BENTON J. CAMPBELL
United States Attorney
By: ROGER ANSON BURLINGAME
EVAN NORRIS
MARISA SEIFAN
Assistant U.S. Attorneys
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Brooklyn, New York 11201

For the Defendant: CURTIS JORDAN FARBER, ESQ.
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Proceedings recorded by mechanical stenography, transcript produced by CAT.

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1 (Open court-case called.)

2 THE COURT: Good morning everyone.

3 I have the defendant's defense witnesses letter of
4 February 19th; the government's anticipation that its case
5 would conclude about March 10th.

6 MR. BURLINGAME: Judge, I believe that is wrong.

7 THE COURT: What is it?

8 MR. BURLINGAME: I think you're looking at the
9 defense's letter. We wrote a letter saying that we have a few
10 witnesses lined up for this week. We're not sure we're going
11 to use all of them.

12 If we go on the short side, we will be resting by
13 the end of the week. If we go long, we'll be resting middle
14 of next week.

15 MS. SHARKEY: The court had asked me to alert you
16 and counsel as to the witnesses. I drafted that on Thursday
17 night or Friday morning. That letter will be supplemented,
18 Judge.

19 THE COURT: All right. Based on the information we
20 now have, would it be appropriate to set February 27th for the
21 jury charge conference?

22 MR. NORRIS: Friday?

23 THE COURT: Yes.

24 MR. BURLINGAME: It very well could be. We may not
25 be done by then, but I think it's equally likely that we will

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1 be.

2 THE COURT: It doesn't make any difference.

3 MR. FARBER: Is it possible to do it in the
4 afternoon? I have some court conflicts in the morning.

5 THE COURT: Yes. Set it for 1:00 o'clock,
6 February 27th. Issue an order. The conference on the charge
7 will take place at that time and place.

8 I should have all of the charges today, correct?

9 MR. NORRIS: We are completing it.

10 MS. SHARKEY: What would be the latest time that
11 will be acceptable for the court on the 27th?

12 THE COURT: What time can you be here conveniently?

13 MS. SHARKEY: I could be here at 4:00 o'clock --
14 3 o'clock.

15 THE COURT: 4:00 o'clock is really too late.

16 MS. SHARKEY: Would 3 o'clock be all right? If it's
17 not convenient to the court I'll try to flip things around.

18 THE COURT: Yes. Make it at 2 o'clock. I will
19 issue an order, 2 o'clock. It shouldn't take long but it may
20 because it's a very complex charge.

21 MS. SHARKEY: We will submit our charges today, your
22 Honor, our requests to charge.

23 THE COURT: Thank you.

24 Court's Exhibit 2. The government suggests resting
25 on midday February 26th, but that will depend on the

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1 circumstances. That is Court's Exhibit 2 of today's date.

2 Court's Exhibit 3 of today's date is defense
3 memorandum on eyewitness statements and other information and
4 the police reports on Sal Puma, Delgado-Rivera murders. We
5 will attend to that in a moment.

6 MR. BURLINGAME: We will have our response to that
7 by the end of the day.

8 THE COURT: Shall we do it tomorrow morning?

9 MS. SHARKEY: Yes.

10 THE COURT: Conference 2/24, 9:00 a.m. tomorrow.

11 Court's Exhibit 5, defendant's letter of
12 February 22nd -- Court's Exhibit 5 of 2/23 /09 -- I don't
13 quite understand what it is that the defendant wants the court
14 to do.

15 MS. SHARKEY: Judge, as I tried to lay out in the
16 letter, we had not received the defendant's -- it would be
17 Kaplan, I forget his initials, Kaplan 1, which is a refusal of
18 Miranda. We received that on the 19th of December, along with
19 a whole host of other documents.

20 The defense initially filed for the suppression
21 motion in July or August. In November of '08 we received a
22 document from the government concerning Kaplan's testimony.

When we were supposed to start the hearing is the date that we received the purported Miranda waiver and refusal to sign the rights.

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1 Now, the government gave us the witness list on
2 Friday, and as we were preparing, that was is the first time,
3 your Honor, that we ourselves became aware of that.

4 I'm not saying that we weren't noticed with that, or
5 we weren't given that on the 19th, but, frankly, in the
6 avalanche of 3500 material, that was overlooked and counsel
7 for Carneglia should have moved to expand the hearing on
8 Miranda grounds on the first week of January.

9 We were relying on the documents we had filed with
10 those papers. Mr. Carneglia was spoken with on Saturday at
11 the MDC. He does not remember anybody reading him Miranda
12 warnings on the date of his arrest.

13 It's our position that our failure to see that
14 document at the time of the hearing -- if the court remembers,
15 there was an awful lot of stuff flying around at the time, I'm
16 not excusing it, but completely up front --

17 THE COURT: What is your motion? What do you wish
18 done?

19 MS. SHARKEY: I want a hearing on the post-arrest
20 statements prior to Kaplan testifying because it's the
21 defense's position --

22 THE COURT: Excuse me. These are the statements
23 made after the purported Miranda warnings were given?

24 MS. SHARKEY: Yes.

25 THE COURT: The statements before are not coming in,

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1 they are either irrelevant or excluded.

2 MS. SHARKEY: Right.

3 THE COURT: We all agree on that, although the
4 government may have a slightly different view with respect to
5 the beard.

6 I told you on the beard I'm not going into that any
7 further. Whatever he said about the Beard is out either on
8 403 grounds or on Miranda grounds. We're all agreed on that.

9 Miranda warnings were purportedly given by the
10 government when the defendant reached the office to which he
11 was being brought. You're now contending that whatever he
12 said post-Miranda doesn't come in?

13 MS. SHARKEY: Right. On two grounds. Both on the
14 Miranda --

15 THE COURT: What evidence are you going to put in on
16 it? Certainly not the defendant. He's not going to testify.
17 So what are you going to put in that will change anything?

18 MS. SHARKEY: We were hoping, your Honor, that the
19 court would evaluate whether or not it was credible that in
20 fact Miranda was issued.

21 THE COURT: I will evaluate it, and I'll tell you my
22 evaluation is it's perfectly credible. If you want to put the
23 defendant on to contradict what's clear from the record, you
24 may do so, but I can tell you now that I'll find the defendant
25 completely incredible. I don't trust anything he would say.

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1 So I'm left with a clear record that the warnings were given.

2 What do you wish the court to do in view of that
3 situation?

4 MS. SHARKEY: I wish the court to go through the
5 statement and evaluate it on a 403 basis. There are certain
6 things in that statement --

7 THE COURT: What?

8 MS. SHARKEY: Specifically I'll tell you. Judge,
9 I'm referencing exhibit A, page two --

10 THE COURT: Exhibit A, page two on what?

11 MS. SHARKEY: Give me one second to pull the right
12 document, please.

13 THE COURT: This is your letter of February 22,
14 2009, which is now Court's Exhibit 6 of 2/23/09.

15 MS. SHARKEY: I want to point out that there is a
16 little bit of discrepancy for purposes of 403.

17 Certainly, I know that the defense would be allowed
18 to cross-examine the witness on this, but I want to point out
19 that on SK 2, which is Detective Kaplan's statement that I
20 take it Mr. Norris pointed outer is the statement on which
21 they are relying --

22 THE COURT: Excuse me. You have documents attached
23 to your February 22nd letter. Which document and which page
24 are you referring to?

25 MS. SHARKEY: Okay. On that letter --

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1 THE COURT: This is Court's Exhibit 6.

2 MS. SHARKEY: It's exhibit B, page two. Your Honor,
3 just for ease of --

4 THE COURT: Exhibit B --

5 MS. SHARKEY: Page two, paragraph two. Judge, that
6 document is also recorded in Exhibit A, page two.

7 THE COURT: Wait a minute. Paragraph two of
8 Exhibit --

9 MS. SHARKEY: Number three, paragraph two, starting
10 "Special Agent..."

11 THE COURT: Paragraph number three.

12 MS. SHARKEY: Yes, sir.

13 THE COURT: What do you want to exclude?

14 MS. SHARKEY: Your Honor, what I was referencing to
15 on this document --

16 THE COURT: Paragraph number three.

17 MS. SHARKEY: Yes.

18 THE COURT: Yes.

19 MS. SHARKEY: It is important that the court also
20 see --

21 THE COURT: Excuse me. I want to know which items
22 on paragraph three you want excluded.

23 MS. SHARKEY: Under 403, Judge, it's the defendant's
24 contention that he --

25 THE COURT: Excuse me. Which do you want excluded?

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1 Then you'll tell me your reasons.

2 MS. SHARKEY: Okay. "He asked if there were any of
3 his people in the room."

4 THE COURT: I'm not excluding that. It's an
5 admission that he has these people.

6 MS. SHARKEY: Also, Judge, it's the defense's
7 contention that the first 5 or 10 lines concerning the
8 different crimes, they are not admissions, they are chatter
9 between the defendant and the investigator questioning him.
10 The Edward G. Robinson movie, none of that should come in as
11 relevant.

12 THE COURT: Denied.

13 MS. SHARKEY: Now, Judge, what I would like to refer
14 the court back to then is Exhibit A --

15 THE COURT: Excuse me. Is there anything else in
16 paragraph marked three you want excluded?

17 MS. SHARKEY: Is the court inclined to delete --

18 THE COURT: I want a motion from you: Exclude X.

19 MS. SHARKEY: Exclude "I'm fucked."

20 THE COURT: "Fucked"?

21 MS. SHARKEY: Yes.

22 THE COURT: Where is that?

23 MS. SHARKEY: That is in paragraph three line --

24 MR. NORRIS: About two-thirds of the way down,
25 Judge.

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1 MS. SHARKEY: "Me and my investigator, I'm fucked.".

2 THE COURT: I'm not going to exclude any of that.

3 You have a very experienced criminal here. He was given his
4 full rights. He continued to make statements which might be
5 deemed incriminatory. None of that is excluded. Denied.

6 MS. SHARKEY: Also, this witness authored a
7 statement -- authored a document, which is exhibit A, page
8 two.

9 THE COURT: What part do you want excluded?

10 MS. SHARKEY: The third paragraph --

11 THE COURT: How does that begin.

12 MS. SHARKEY: CC stated: "Okay, so your canary
13 said?" The last clause of that document is "I have to take
14 the stand."

15 We would request that the court preclude the
16 government from eliciting that statement from the witness.
17 Certainly it has no bearing --

18 THE COURT: Why does the government need that? That
19 phrase is eliminated.

20 MR. NORRIS: We have no objection. This is from a
21 different agent's report --

22 THE COURT: That is eliminated. Your motion is
23 granted. The words "I have to take the stand" will not be
24 used.

25 What else?

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1 MS. SHARKEY: That's it, Judge. I believe the rest
2 of those statements were covered by exhibit B, although we do
3 take exception as to the court's ruling on the issuance of
4 Miranda.

5 MR. FARBER: Actually, the part about "longevity
6 runs in my family. My mother is in her nineties and I don't
7 want to live in prison for 30 years."

8 Again, I would argue on relevance, it doesn't
9 bear -- it would suggest to the jury the punishment that could
10 follow in a case like this, and I think that would be improper
11 for the jury to have such information before it.

12 THE COURT: No, I don't believe so. I think it's
13 relevant to suggest a guilty state of mind.

14 MS. SHARKEY: I'm sorry, that does or doesn't come
15 in?

16 THE COURT: It comes in. We have Court's Exhibit 5,
17 the defense letter of February 22nd. What do you want the
18 court to do?

19 MS. SHARKEY: Judge, the government has provided the
20 defense this morning with the composite CD, but, nonetheless,
21 we would still note that our review of the 3500 material
22 doesn't make this witness' testimony relevant.

23 THE COURT: Excuse me?

24 MS. SHARKEY: Ask the government for an offer of
25 proof or preclude the witness from the witness list.

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1 THE COURT: What is the government's view?

2 MR. BURLINGAME: We provided all the recordings and
3 transcripts as to this witness long ago. I have been
4 preparing the witness who is going to testify today.

5 We have yet to make an absolute final selection as
6 to specifically which portions of those recordings we will
7 play. I have provided the defense with the group of
8 recordings and the group of snippets of those recordings that
9 I believe we will choose from.

10 There may be one additional snippet that I haven't
11 had an opportunity to look at yet. I'm going to figure that
12 out tonight.

13 THE COURT: You won't put it in until tomorrow then?

14 MR. BURLINGAME: It will be at the end of the week.

15 THE COURT: You can do it. Motion of the defendant
16 is denied.

17 Are there any other motions the defendant wishes to
18 make?

19 MS. SHARKEY: Yes, Judge. Last week the court
20 allowed in certain photographs of Mr. Delgado-Rivera that were
21 shown to the court. Defense counsel objected to them.

22 I would note that the prosecution has showed them to
23 me this morning and they are blown up on a rather large
24 exhibit board.

25 THE COURT: Let me see the blowups, please.

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1 MR. BURLINGAME: Yes, Judge.

2 THE COURT: You're showing me exhibit what?

3 MR. BURLINGAME: That is 106 B. It's
4 Delgado-Rivera's back.

5 THE COURT: 106 B can come in. It has to be shown
6 to the whole jury and identified, and it's a convenient way of
7 presenting it and it has no indication that it will affect the
8 defendant adversely because of its blown up size.

9 MS. SHARKEY: I haven't objected to that photograph
10 that Mr. Burlingame is holding up.

11 THE COURT: You're holding up what.

12 MR. BURLINGAME: 105 F.

13 THE COURT: No objection. What else is not objected
14 to?

15 MR. BURLINGAME: I might have the wrong grouping.
16 Hold on one second. This is another one. 106 A.

17 THE COURT: That is a blowup with a Stick-um as
18 suggested by the court over his lower jaw, and that seems
19 perfectly appropriate to me.

20 MS. SHARKEY: Respectfully, just for the record,
21 Judge, it adds nothing to the proof except to inflame the
22 passion of the jury.

23 THE COURT: May I see it again? It shows that he
24 was beaten because of the bruises around the eye. I will
25 allow it. It's critical.

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1 MR. BURLINGAME: I believe there may be more here.

2 That's it. There are other ones that will come
3 in -- there is the other pictures of DiBono's body in the car
4 with his legs folded up.

5 THE COURT: That can be shown blown up. That will
6 be done for the convenience of the jury.

7 MS. SHARKEY: I note that the defense registered its
8 objections. It is our position that it inflames the passion.
9 It doesn't have to be family sized.

10 THE COURT: Denied.

11 MR. BURLINGAME: Judge, there's just a few issues.
12 I want to alert the court to. We are going to put on the
13 cooperating witness John Alite later in the morning and the
14 same drug use issue arose that arose with respect to Zuccaro
15 and Kevin McMahon, which is in discussing his drug use he also
16 smoked marijuana with the defendant on a couple of occasions.

17 THE COURT: That comes in. It shows their close
18 relationship.

19 MR. BURLINGAME: I also just wanted to put on the
20 record that I've prepped the witness extensively and have
21 explained to him -- he's also aware of the disposing of
22 bodies.

23 I don't think there will be any problems. He's a
24 witness that is able to understand instructions fairly well.

25 Anyway, I have instructed him repeatedly about not

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1 mentioning the use of acid with respect to the disposing of
2 the bodies.

3 Then there are two -- in the government's other acts
4 letter alerting the court of the other racketeering acts and
5 conduct which is not specifically charged as a racketeering
6 act, we noticed that this witness, as well as other witnesses
7 who have already testified, that the defendant passed him a
8 machine gun that the defendant had received from John Gotti
9 Junior.

10 In preparing the witness to testify, I discussed
11 that incident with him further and his understanding was that
12 the defendant was giving him that machine gun to kill John
13 Gotti Junior with. In fact, he made a statement, a very
14 explicit statement about that.

15 THE COURT: Defendant made it?

16 MR. BURLINGAME: The defendant made that. So --

17 THE COURT: What is your view?

18 MS. SHARKEY: We have never received any notice of
19 this. This is the first time that we're hearing that right
20 now. We would ask that it be precluded.

21 THE COURT: Denied. It seems to me highly relevant
22 to show the relationship among all three of those people, the
23 defendant, the person he allegedly handed the gun to, and the
24 alleged victim.

25 MR. BURLINGAME: It's also direct evidence --

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1 THE COURT: -- purported victim.

2 MR. BURLINGAME: -- of the racketeering conspiracy
3 charged.

4 There was also one additional assault the defendant
5 ordered this witness to commit for him, which was an assault
6 on a person named Mitchell Saunders.

7 THE COURT: When?

8 MR. BURLINGAME: I don't have filled into my --

9 THE COURT: Approximately?

10 MR. BURLINGAME: I believe it was the early nineties
11 when his relationship was forming with the defendant and the
12 defendant asked him to beat the guy with a blackjack.

13 THE COURT: You object?

14 MS. SHARKEY: Yes, Judge.

15 THE COURT: Overruled. I will allow it. It shows
16 the relationship and the defendant's position in the gang as a
17 strongarm man.

18 MR. BURLINGAME: That is it for the government. We
19 with are waiting on a board to --

20 THE COURT: Bring in the witness, please.

21 MR. BURLINGAME: If we could have one second --

22 THE COURT: Bring in the witness, please.

23 MS. SHARKEY: May I have a minute?

24 MR. BURLINGAME: If we could just -- our first
25 witness is a crime scene investigator. He's going to be going

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1 through these boards.

2 There are two boards that we had to redo because
3 there were some errors on them and to conform with the court's
4 ruling. Those boards would be here within ten minutes.

5 Could we have ten minutes with the court's
6 indulgence to get the boards here?

7 THE COURT: I'm going to start with the witness and
8 then we will wait. Let's get the witness started. It takes
9 time to shuffle everybody in.

10 Get the witness in now, please.

11 (Pause.)

12 THE COURT: Bring in the jury. May we have the
13 witness on the stand, please.

14 (Jury present.)

15 THE COURT: Good morning everyone. Please be
16 seated.

17 Swear the witness.

18 THE CLERK: Please stand and raise your right hand.

19 HAL SHERMAN,

20 called as a witness, having been first duly sworn,
21 was examined and testified as follows:

22 MS. SEIFAN: Permission for the witness to have his
23 report next to him in order to refresh his recollection as
24 needed?

25 THE COURT: Granted.

Sherman - direct/Seifan

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1 DIRECT EXAMINATION

2 BY MS. SEIFAN:

3 Q Good morning.

4 A Good morning.

5 Q What do you do for a living?

6 A Presently I am a consultant.

7 Q What do you consult on?

8 A I consult on forensic criminalistic matters in criminal
9 and civil matters.

10 Q Do you teach any classes?

11 A I do.

12 Q What kind of classes?

13 A I teach for the United States Department of Homeland
14 Security. I teach for John Jay College of Criminal Justice,
15 and I teach for New York State DCJS.

16 Q What is DCJS?

17 A Department of Criminal Justice Services. Sorry.

18 Q What did you do prior to coming a consultant?

19 A From 1982 until the year 2002 I worked for the NYPD.

20 Q What did you do for the NYPD?

21 A From 1987 till the year 2002 I worked in the Crime Scene
22 Unit.

23 Q How long were you in the Crime Scene Unit?

24 A Almost 15 years.

25 Q What was your rank when you retired?

Sherman - direct/Seifan

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1 A I was a first grade detective.

2 Q Could you tell the jury what the Crime Scene Unit does.

3 A The Crime Scene Unit is the field unit of the Forensic
4 Investigation Division. Our functions include, but are not
5 limited to, responding to scenes of serious crimes and
6 incidents and once thereat performing a series of tasks.

7 Those tasks might include taking photographs,
8 preparing diagrams, collecting evidence, examining scenes, and
9 examining victims for forensic evidence.

10 Q What kind of training did you receive prior to joining
11 the Crime Scene Unit?

12 A While in the Crime Scene Unit I received training from
13 the FBI in basic fingerprint, advance fingerprint,
14 photography, exhumation of human remains.

15 I received training from the New York City Office of
16 Chief Medical Examiner on blood spatter, pattern analysis. I
17 received training on hairs and fibers, glass fractures,
18 footwear impressions, entomology, botanical crime scenes.

19 Is that good?

20 Q Fine.

21 A All right.

22 Q Let me direct your attention to December 14, 1990. Were
23 you working that day?

24 A Yes.

25 Q What was your shift?

Sherman - direct/Seifan

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1 A I started at 11:00 p.m. the day before and I was
2 scheduled to finish that day at 8:00 a.m..

3 Q 8 a.m. the 14th?

4 A I was scheduled to, yes.

5 Q Okay. Do you recall responding to a crime scene at John
6 F. Kennedy International Airport on December 14th?

7 A Yes, ma'am.

8 Q Did you respond with a partner?

9 A Yes.

10 Q Do you recall your partner's name?

11 A Detective James Killeen.

12 Q What time approximately did you respond to JFK?

13 A I arrived there shortly after 7:00 a.m.

14 Q Prior to arriving at the crime scene was this
15 investigation assigned a number?

16 A It was.

17 Q Do you recall that number?

18 A I believe it was 3497 of 1990.

19 Q Do you recall where at JFK you responded to?

20 A Hanger No. 10. It was the American Airlines building.

21 Q Can you tell the jury what happened when you arrived at
22 Hanger No. 10?

23 A Upon my arrival I had ascertained that a valid crime
24 scene had been established, one in which unauthorized persons
25 were not allowed to enter or exit.

Sherman - direct/Seifan

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1 I arrived at the scene. I was met by a police
2 officer and I received preliminary information as to what
3 occurred prior to my arrival.

4 Q What did you learn?

5 A That an armored car courier had been shot and he was
6 removed to Jamaica Hospital.

7 Q What did you do next?

8 A I started preparing a diagram of the scene. I then took
9 a series of photographs and then after that began collecting
10 physical evidence.

11 Q I'm showing what is already in evidence as Government
12 Exhibit 105 B and 105 A.

13 Do you recognize these photographs?

14 A I do.

15 Q What do you recognize it to be?

16 A There are four photographs there. They are photographs
17 that I took on that date in connection with this
18 investigation.

19 May I add, they are a true and accurate graphic
20 representation of what I saw that day. Each one with of them
21 are overall photographs -- would you like me to describe them?

22 Q No, I'm going to have you step down and describe them.

23 These are photographs that you took?

24 A Definitely.

25 Q I'm showing you what is in evidence has Government

Sherman - direct/Seifan

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1 Exhibit 105 E.

2 Do you recognize this photograph?

3 A I do.

4 Q Another photograph you took on the day -- on December 14,
5 1990?

6 A Yes.

7 Q I'm showing you what has been marked for identification
8 as Government Exhibit 105 G, as in girl. Do you recognize
9 this photograph?

10 A I do.

11 Q What do you see it to be?

12 A I recognize it to be a photograph that I took on that day
13 in connection with this investigation. It is a true and
14 accurate graphic representation of what I saw on that day.

15 Do you want me to describe what it is?

16 Q You can describe it.

17 A It is a photograph depicting ballistic damage to the
18 interior of the armored car vehicle. It is the passenger side
19 interior window area.

20 MS. SEIFAN: Your Honor, move to admit 105 G.

21 MS. SHARKEY: No objection.

22 THE COURT: Admitted.

23 (So marked.)

24 Q I'm showing as you stand what has been marked for
25 identification pass Government Exhibit 105 D as in David. Do

Sherman - direct/Seifan

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1 you recognize this photograph?

2 A I do.

3 Q What do you recognize it to be?

4 A It's a montage of four photographs. Each of those
5 photographs are photographs that I took on that day in
6 connection with this investigation. Each one of those
7 photographs is a true and accurate graphic representation of
8 what I observed on that day.

9 MS. SEIFAN: Your Honor, I move to admit Government
10 Exhibit 105 D.

11 MS. SHARKEY: No objection.

12 THE COURT: Admitted.

13 (So marked.)

14 Q I'm showing you what has been marked for identification
15 as Government Exhibit 105 H. Do you recognize this
16 photograph?

17 A I do.

18 Q What do you recognize it to be?

19 A I recognize it to be a photograph that I took on that day
20 in connection with this investigation. I recognize it to be a
21 true and accurate graphic representation of the objects that I
22 saw that day. I recognize it to be the contents of the
23 interior rear of the armored car.

24 MS. SEIFAN: Your Honor, I move to admit Government
25 Exhibit 105 H.

Sherman - direct/Seifan

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1 THE COURT: Admitted.

2 MS. SHARKEY: No objection.

3 (So marked.)

4 Q Lastly, I'm showing you what has been marked for
5 identification as Government Exhibit 105 F as in Frank. Do
6 you recognize this photograph?

7 A I do.

8 Q What do you recognize it to be?

9 A I recognize it to be a photograph that I took on that day
10 in connection with this investigation. I recognize the
11 photograph that it's a true and accurate graphic
12 representation of what is depicted there.

13 I further recognize that the photograph is depicting
14 the armored courier's weapon that I photographed, examined and
15 recovered on that day in connection with this investigation.

16 MS. SEIFAN: Your Honor, I move to admit Government
17 Exhibit 105 F.

18 MS. SHARKEY: No objection.

19 THE COURT: Received.

20 (So marked.)

21 MS. SEIFAN: Permission for the witness to step
22 down?

23 THE COURT: What about 105 C, are you putting that
24 in?

25 MS. SEIFAN: I don't think so, your Honor.

Sherman - direct/Seifan

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1 THE COURT: All right. The witness may step down.

2 BY MS. SEIFAN: .

3 Q Detective Sherman, can you please explain to the jury
4 what we're looking at in Government Exhibit 105 B as in boy.

5 A Would you like me to describe the photograph closest to
6 me or further from me?

7 Q Start with the left photograph and then go to the right
8 photograph.

9 A This is a photograph of the vicinity of the crime scene.
10 It is taken from the north towards the south along the
11 curbline, and I'm now pointing to the area that the armored
12 car is. It is opposite the entrance to the building.

13 Q Turning to the right photograph. What are we looking at?

14 A That is a photograph depicting the crime scene. It is
15 taken along the curbline in a northward direction. Again, in
16 the middle of the photograph I'm now pointing to the armored
17 car, the rear of it, and the entrance to the building is right
18 over here. I'm pointing to the area adjacent to it.

19 Q Turning to Government Exhibit 105 A. What are we looking
20 at here?

21 A This is a photograph that I took on that day in
22 connection with this investigation. It is a photograph
23 depicting the driver's side of the armored car and on the
24 other side of the -- you can see just to the rear of the
25 armored car is the entrance to the building.

Sherman - direct/Seifan

3195

1 Q Turning to the right photograph of 105 A?

2 A That is a photograph depicting the rear portion of the
3 armored car. It is taken on the driver's side. It is showing
4 the rear of the armored car and adjacent to it is the entrance
5 to Hanger No. 10, American Airlines building.

6 Q Can you explain Government Exhibit 105 G for the jury.

7 A It is a photograph that I took on that day in connection
8 with the investigation. I recognize it to be true and
9 accurate graphic representation of the interior of the
10 passenger side of the armored car.

11 I further recognize it to have ballistic damage to
12 the window, the area above the window, as well as the frame
13 adjacent to the open -- when I say window, the door.

14 Q Can you identify for the jury what evidence you see on
15 the door of the passenger side.

16 A I'm pointing to three areas that you can plainly see, 1,
17 2 and 3. They have what look like spider webs adjacent to
18 them.

19 Those are glass fractures. Again, I'm pointing to
20 1, 2 and 3. They all are circular and they all have a
21 quantity of what looks like white around them.

22 Additionally, I'm pointing to an area that has
23 ballistic impact marks, or what is consistent with ballistic
24 impact markets adjacent to a rivet, and if you look at the
25 open door, at the 11 o'clock position, there is another BIM or

Sherman - direct/Seifan

3196

1 ballistic impact mark and, lastly, there's one right over here
2 on the door frame.

3 Q In total, we are looking at about six ballistic impact
4 marks?

5 A Yes, ma'am.

6 Q Turning to the photograph labeled Government Exhibit 105
7 E. What are we looking at here?

8 A A photograph that I took on that day in connection with
9 this investigation. It is a true and accurate graphic
10 representation of the scene.

11 It is a photograph depicting the area north of the
12 passenger side of the armored car. It is a photograph
13 depicting the location where the officer's weapon was, a tree,
14 a baseball cap, American Airlines, and then some other objects
15 there.

16 Q So down here at the bottom we see this hat. What kind of
17 hat is this?

18 A American Airlines.

19 Q And that's a hat that you recovered from the scene of the
20 crime?

21 A It's a baseball cap that I recovered on that day in
22 connection with this investigation, yes.

23 Q Look at Government Exhibit 105 F as in Frank, please.

24 A Yes.

25 Q What are we looking at here?

Sherman - direct/Seifan

3197

1 A This photograph was taken at the same time. It's a true
2 and accurate graphic representation of the scene as I saw it
3 on that day in connection with this investigation.

4 It is a photograph depicting a quantity of what
5 appears to be blood as well as the officer's weapon. The
6 weapon I did recover shortly thereafter. The weapon had six
7 cartridges in it, and for lay people as yourself, they are
8 live rounds, they had not been fired.

9 Q So this gun had not been fired?

10 A Correct. I should say, inside of it was six cartridges,
11 which means that that the ammunition inside the weapon was six
12 live rounds.

13 Q This can only handle six?

14 A The cylinder capacity is six.

15 Q And is this a close-up of this 105 E?

16 A The contents of that photograph are just taken closer.
17 This is the overall, overall mid-range, and then this is the
18 closer one depicting the weapon and the tree.

19 This tree that I'm pointing to right here is the
20 same tree as right there.

21 Q Do you have any understanding as to what is depicted to
22 the right behind the hat in Government Exhibit 105 E?

23 A Clothing.

24 Q Do you know whose clothing -- do you have an
25 understanding of whose clothing that is?

Sherman - direct/Seifan

3198

1 A No.

2 Q And I'm showing you what is marked as Government
3 Exhibit 105 D. Can you explain to the jury what we are
4 looking at. Start with the top left photograph.

5 A Looking at a photo montage of four photographs that I
6 took on that day in connection with this investigation. I
7 recognize them each to be true and accurate graphic
8 representations of photographs that I took on that day.

9 Each one of them is a photograph of ballistic
10 evidence or ballistic damage. I will start with the top left
11 one which has the tire at the top of the photograph.

12 That has a .380 auto discharged shell. There was a
13 circle placed around it prior to my arrival. I'm circling it
14 right now, and there is the discharged shell.

15 Q Where is it in relation to the truck?

16 A That's the tire, that is the front tire, that is the
17 discharged shell. It's adjacent to it.

18 Q On the passenger side of the truck?

19 A Yes, ma'am.

20 Q Top right photograph.

21 A Top right photograph is a photograph depicting a .380
22 auto discharged shell, which I'm now circling. And that is
23 adjacent to a mailbox. This mailbox is seen in the photograph
24 showing the front of the entrance to Hanger No. 10.

25 Q I'm handing you a marker. You can circle the shells.

Sherman - direct/Seifan

3199

1 They're a little hard to see.

2 A Right.

3 Q The bottom left photograph, what are we looking at?

4 A The bottom left photograph is a photograph depicting a
5 12-gauge shotgun discharged shell. I'm now going to circle
6 it. It's green in color.

7 I'm going to circle it first with the pointer and if
8 you like I will use the Magic Marker and do the same.

9 Q What are we looking at in the bottom right photograph?

10 A The last photograph is a photograph of a -- what is known
11 as a BIM, ballistic impact mark, and that is taken adjacent to
12 the -- one of the feet, one of the feet of the mailbox that
13 I'm now circling with my pointer and my Magic Marker.

14 Q Can you explain to the jury what a ballistic impact mark
15 is, what they're looking at in this photograph. It's a little
16 hard to see.

17 A If I shot a gun at this object, the board -- it would put
18 a bullet hole through it, but if I hit an object that was too
19 hard, it leaves impact mark.

20 So what it does, it's really hitting the object, but
21 you can't put a bullet through the concrete, so it hits the
22 concrete and then you have chips of the concrete that go away.

23 So they are what are known as BIMs, which is a
24 ballistic impact mark usually going straight down. There are
25 skips, kind of like skipping a rock on the water, and grazes.

Sherman - direct/Seifan

3200

1 Grazes are usually longer.

2 Q So this is consistent with someone firing a gun towards
3 the ground?

4 A A weapon being discharged and striking the substrate,
5 which is the concrete, yes.

6 THE COURT: Could you show in a larger view of that
7 area so we can see where those marks are in connection with
8 the location of the armored car, please.

9 Q Can you tell the --

10 THE COURT: Give it a number.

11 Q We're looking at Government Exhibit 105 B as in boy.

12 A This photograph that I previously discussed is a
13 photograph that I took on that day in connection with this
14 investigation. It's a true and accurate graphic
15 representation of the scene.

16 The photograph is taken in a southerly direction
17 along the curbline, so right now I am north of the building.
18 I'm now facing south, and if you would like I can take a Magic
19 Marker and circle the mailbox on that overall photograph.

20 Q That's good.

21 THE WITNESS: Would that be helpful, sir?

22 THE COURT: Yes.

23 THE WITNESS: I'm now taking a Magic Marker and --

24 Q You can put your initials next to it.

25 A Yes. This the US Postal Service mailbox with a circle

Sherman - direct/Seifan

3201

1 around it, and then as you will notice, your Honor, here is
2 the mailbox, the same mailbox, and that is one of the
3 discharged shells and then I managed to put the foot or leg of
4 the mailbox to show the location of the BIM juxtaposed to
5 the mailbox.

6 Q Do you recall where the shotgun shell was recovered in
7 relation to this photograph?

8 A No. It's in my report.

9 Q Would looking at your report refresh your recollection as
10 to where it was recovered?

11 A It will tell me the location based upon two fixed points,
12 which might not be readily understandable to you, but I can
13 certainly take a look and try to clarify if that's helpful.

14 Q Why don't you just take a quick look.

15 THE WITNESS: May I, sir?

16 THE COURT: Yes.

17 (Pause.)

18 A If we have another photograph, I can show you -- the
19 photograph that I discussed looking at the entrance to the
20 building. It is easier to show on there as opposed to giving
21 measurements.

22 Q This photograph?

23 A Yes.

24 THE COURT: Number?

25 Q This is Government Exhibit 105 A.

Sherman - direct/Seifan

3202

1 A It is on the sidewalk in this area over here. I'm
2 circling it with my pointer.

3 Q Circle it, please.

4 A All right. Approximately here. I'm putting my initials
5 next to it.

6 THE COURT: That is to the rear of the --

7 MS. SEIFAN: Rear of the armored car.

8 THE COURT: What is the significance of the shell
9 being found at that point?

10 THE WITNESS: Indicative of the weapon being
11 discharged near there.

12 (Continued next page)

13

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Sherman - direct / Seifan

3203

1 DIRECT EXAMINATION (CONTINUED)

2 BY MS. SEIFAN:

3 THE COURT: And what's this number, the montage,
4 what is that number?

5 MS. SEIFAN: 105D.

6 THE COURT: What is the direction of where you are
7 pointing to, where the shell is now?

8 THE WITNESS: This area I'm pointing to you right now
9 has the articles of clothes that I previously discussed.
10 Adjacent to that is the weapon, and also, the mailbox nearby,
11 so what we're doing right now is I'm looking at in this
12 photograph -- the top left where I'm pointing to -- I'm
13 looking at the area that the weapon was recovered. The weapon
14 was not far from the mailbox, over here are the clothes --
15 where the clothing was, and over here where the weapon was.

16 THE COURT: Mark that with a circle and your
17 initials.

18 (Witness complied)

19 THE COURT: What is the number that you are putting
20 on there?

21 MS. SEIFAN: 105-A.

22 THE WITNESS: Can I put a aero with M B for mailbox?
23 It is actually off the photograph.

24 THE COURT: Yes, that's all right, in the margin to
25 the left.

Sherman - direct/ Seifan

3204

1 THE WITNESS: I placed an arrow with a pointer at the
2 location showing that's off the photograph. I used the letter
3 M B, indicative of mailbox, and I placed my initials H S.

4 THE COURT: That would be to the right of the front
5 fender of it, right, and ahead of front fender of the armored
6 car?

7 THE WITNESS: Yes, sir.

8 THE COURT: On the driver's side.

9 THE WITNESS: Passenger's side, sir.

10 THE COURT: Yes, passenger's side, indicating the
11 weapon was fired in which direction, from what point to what
12 point?

13 THE WITNESS: The only weapon that I can tell you
14 with any scientific certainty, the ballistics impacted. The
15 lower right one adjacent to where the foot of the mailbox is.
16 I know that it's consistent with going in a downward angle
17 from there. The other objects, the discharged shells, the
18 380s, and also, this one. Its difficult to say exactly where
19 they were fired from.

20 Q What about shotgun shells?

21 A I can tell you that when the 380s are fired its generally
22 the discharge shell ejects to the right, and remember, the
23 weapon may be eight feet, may be ten feet. However, it was
24 windy that day and the objects are roughly the size of, let's
25 say, of a cigarette butt and roughly, probably, about the same

Sherman - direct/ Seifan

3205

1 weight. So if it's windy out they do have a tendency somewhat
2 to move the shotgun discharge shell. However, you'll notice
3 is directly in a crack, or fat expansion joined line in the
4 sidewalk.

5 THE COURT: And where would that object on the
6 photograph be -

7 THE WITNESS: -- approximately, sir.

8 THE COURT: Approximately.

9 THE WITNESS: I put the -- I will put twelve dot one
10 two in the circle there, which is indicative of 12 gauge.

11 THE COURT: All right.

12 THE WITNESS: I put dot one tow. I put a GA also,
13 standing for 12-gauge.

14 THE COURT: Now, the shotgun was fired from,
15 approximately, that position within a few feet, and you had
16 shotgun fragments to the right, the passenger's side, or in
17 the window of the passenger's side in that area, what would
18 that suggest?

19 THE WITNESS: The best I can tell you is that it's
20 consistent with the weapon being fired -- in the passenger's
21 side door and window projectiles the location of discharged
22 12-gauge shotgun shell is not inconsistent with being fired in
23 the direction of the passenger interior of the armored car. I
24 don't personally have knowledge as to what type of 12-gauge
25 shotgun it was so, I don't know if it automatically ejected or

Sherman - direct/ Seifan

3206

1 passing manually ejected. Whereas, the 380 auto discharge
2 shells are ejected from the weapon automatically so I don't --

3 THE COURT: Assuming the passenger door was open and
4 assuming that the shotgun was fired from, approximately, the
5 location of the shotgun shell, what would that suggest? That
6 would be fired to the right and behind the vehicle, correct?

7 THE WITNESS: You are correct, sir.

8 THE COURT: And the fragments, then, at least some
9 of them, would have hit the open window -- the closed window,
10 which is on the open door?

11 THE WITNESS: Yes.

12 THE COURT: Okay.

13 BY MS. SEIFAN:

14 Q Just for clarification sake, on 105 A where is this --
15 where was this found? If you could show the jury over here
16 (indicating).

17 A It would be -- you'll notice here the top right -- I'm
18 sorry -- the top left photograph.

19 THE COURT: Indicate the number of the photograph
20 montage.

21 THE WITNESS: 105-D David. I'm looking at 105 D.

22 Q The top photograph?

23 A Yes, I'll get there.

24 This is the front passenger's side tire of the
25 armored car and that is the line, and you will see in front of

Sherman - direct/ Seifan

3207

1 the front passenger's side tire it says employee bus. As we
2 walk over to this photograph, which is 105 A as in Adam, we
3 now see -- we see the side of the armored car, which is the
4 driver's side -- the driver's wheel, which is on the other
5 sides of the passenger wheel or tire, and the words employee
6 bus are here. So you can see this in relation to the fixed
7 point of the words employee bus on the top left, which is 105D
8 and then 105-A is showing the other side of the armored car.

9 Q Detective Sherman -

10 A Yes.

11 Q Is that consistent with the pistol being fired in the
12 area to the right of the passenger door of the armored car?

13 A It is consistent with being fired on the sidewalk.

14 Q You indicated it was windy that day?

15 A Right.

16 The discharged shell gets automatically ejected from
17 the weapon and the given the number is eight to ten feet, so
18 to the right, and rear, so it's hard to say based upon that
19 because there's no two fixed points, but it's consistent with
20 somebody standing on the sidewalk --

21 Q -- okay --

22 A -- to the passenger's side of the vehicle.

23 Q Okay.

24 THE COURT: In the direction of that small tree in
25 the clothing that you had indicated?

Sherman - direct/ Seifan

3208

1 THE WITNESS: Difficult to say, Your Honor, because
2 it's an object that was dropped on the floor and it could move
3 somewhat.

4 THE COURT: Okay.

5 Q Just going back to 105-G for a moment, do you have any
6 understanding as to what we're looking at in terms of
7 ballistics evidence, is that consistent with a shotgun being
8 fired?

9 A I could tell you that there were two 380 discharged
10 shells and each of the 380s, the discharged shells, would have
11 one projectile each, so I can't tell you which one is which,
12 but it's a 380. If they fired -- if the person fired twice
13 would account for two and then I still have one, two, three,
14 four other ballistics impact marks which these are not
15 inconsistent with a shotgun blast.

16 MS. SEIFAN: We're missing one more.

17 Q Okay. If you can turn for a moment to Government
18 Exhibit 105, what are we looking at here?

19 A The open area of the rear of the armored car. It's a
20 photograph that I took on that day in connection with this
21 investigation. I recognize it to be a true and accurate
22 representation of the interior rear of the armored car. I
23 recognize it to have a certain amount of cardboard boxes and
24 on the lower right-hand side adjacent to a white, I'll say,
25 metal bucket with a handle are several bars of gold colored

Sherman - direct/ Seifan

3209

1 metal.

2 Q Under these are gold bars?

3 A Yes.

4 Q But you didn't test it for gold bars, that is your
5 understanding, these are gold bars?

6 A Yes.

7 Q Okay. You can sit down.

8 A (Witness complied)

9 Q Detective Sherman, what did you do after you took the
10 series of photographs at the scene?

11 A I then began to collect some of the physical evidence.

12 Q What kind of physical evidence did you collect?

13 A I collected the ballistics evidence we already discussed,
14 which is two 380 auto shells casings. I recovered a 12-gauge
15 shotgun discharged shell. I also recovered a piece of wadding
16 which is consistent with coming from a 12-gauge. So, the gun
17 shell.

18 Q Do you recall how many piece of wadding you recovered?

19 A I think, two.

20 Can I look at my report to refresh my recollection
21 please?

22 Q Sure.

23 THE WITNESS: Your Honor, may I?

24 THE COURT: Yes.

25 THE WITNESS: Two.

Sherman - direct/ Seifan

3210

1 Q Did you recover anything else? In addition to two pieces
2 of wadding was it -- what was it made out of, the wadding, do
3 you recall?

4 A I do not.

5 Q In addition to the wadding what did you recover, what
6 other ballistics?

7 A Two plastic caps from a shotgun cartridge.

8 Q Anything else?

9 A I recovered the weapon that I previously discussed that
10 was adjacent to the mailbox on the grass in one of the
11 photographs.

12 Q And that was a guard's weapon?

13 A Yes.

14 Q In addition to the ballistics evidence, what else did you
15 recover?

16 A I recovered a cigarette butt, I recovered a blue baseball
17 cap that I pointed out, American Airlines baseball cap from
18 the sidewalk adjacent to the mailbox near the scene. Inside
19 of that hat I recovered two hairs that I removed from that
20 baseball cap, and placed them into a manila envelope.

21 Q All right. I'm showing you what's already in evidence
22 Government Exhibit 115, 118 and Government Exhibit 117. Can
23 you take a look at these item and tell me if you recognize
24 them?

25 A Yes, ma'am.

Sherman - direct/ Seifan

3211

1 Q What do you recognize them to be? Start with the name,
2 give us the number of the exhibit, and describe it.

3 A Number 115 is the blue baseball cap, American Airlines
4 baseball cap that I recovered on that day in connection with
5 this investigation. I recognized it based upon the crime
6 scene unit, run the number, you know, the unique identifiers
7 as well as the handwriting, the packaging, the actual object,
8 and I marked it. Placed upon the object.

9 Government Exhibit 118 I recognize to be the bag
10 that the hat was placed inside of -- the American Airlines
11 hat. I recognize it based upon the unique identifiers, the
12 handwriting and actual object.

13 And number 117 is the packaging that I placed the
14 two hairs that I recovered from the American Airlines baseball
15 cap. I placed the two hairs or possible hair samples into
16 this manila envelope.

17 I recognize it based upon the crime scene unit run
18 number, the date, the object, the handwriting, the packaging,
19 my initials.

20 MS. SEIFAN: Thank you.

21 THE COURT: Are you offering 118?

22 MS. SEIFAN: I thought I did.

23 THE COURT: Not according to my notes.

24 MS. SEIFAN: I offer it, Your Honor.

25 THE COURT: Admitted.

Sherman - direct / Seifan

3212

1 (Government Exhibit 118 received and marked in
2 evidence)

3 THE COURT: 115 and 117 are already in evidence, the
4 hair; 116-A and B, they have been offered, have they?

5 MS. SEIFAN: Yes.

6 THE COURT: They are in evidence.

7 Q Detective Sherman, in addition to recovering this blue
8 American Airlines hat and hairs that were inside that American
9 Airlines hat, what else did you recover? Anything else that
10 you can think of? What did you do next after you recovered
11 them?

12 A I took the baseball cap and placed it inside of the
13 plastic bag and forwarded that to the police laboratory for
14 potential analysis for additional hairs that I would not have
15 seen while at the scene. I took the ballistics evidence, the
16 discharged shells, and I processed them for fingerprints.

17 I also processed the driver's -- apologize -- the
18 passenger's side door and window for fingerprints, the interior
19 and exterior, and the results of all my fingerprint analysis
20 was negative results, meaning I did not get any fingerprints.

21 Q What did you do you after you processed the crime scene?

22 A I then went to Jamaica hospital.

23 | Q What did you do at Jamaica hospital?

24 A I went to the basement. I went to the morgue where I
25 attempted to ascertain the wounds that the deceased had.

Sherman - direct/ Seifan

3213

1 Q Did you take any photographs of the victim while you were
2 at Jamaica hospital?

3 A I did.

4 Q I'm showing you what's been marked for identification as
5 Government Exhibit 106-B. Do you recognize this photograph?

6 A I do.

7 Q What do you recognize it to be?

8 A I recognize it to be photograph that I took on that day
9 in connection with this investigation. I recognize it to be a
10 photograph -- a true and accurate representation of the ones
11 sustained by Jose Delgado Rivera, the posterior of his person.

12 Q What do you mean by "posterior"?

13 A His back.

14 MS. SEIFAN: I move to admit Government Exhibit 105
15 -- 106-B.

16 THE COURT: D as in dog?

17 MS. SEIFAN: B as in boy.

18 THE COURT: B as in boy admitted.

19 (Government Exhibit 106-B received and marked in
20 evidence)

21 Q I am showing you what's been marked for identification
22 106-A as in apple. Do you recognize to photograph?

23 A I do.

24 Q What do you recognize it to be?

25 A I regular it to be a photograph that I took on that day

Sherman - direct/ Seifan

3214

1 in connection with this investigation.

2 I recognize it to be a photograph depicting a true
3 and accurate representation of what I saw on that day. It is
4 a photograph that I took depicting the head and upper torso of
5 Mr. Jose Delgado Rivera while in the basement of Jamaica
6 hospital at the morgue.

7 MS. SEIFAN: I move to admit Government
8 Exhibit 106-A.

9 THE COURT: Admitted.

10 (Government Exhibit 106-A received and marked in
11 evidence).

12 MS. SEIFAN: Permission for the witness to step down
13 and explain these photographs.

14 THE COURT: Yes.

15 Q Detective Sherman, there's a white piece of paper
16 there --

17 A -- yes --

18 Q -- that was not there when you originally took the
19 photograph?

20 A Correct.

21 Q Can you explain what we're looking at in this left
22 photograph?

23 A It is a --

24 Q 106-A?

25 A It's a photograph depicting the head and upper torso of

Sherman - direct/ Seifan

3215

1 Mr. Jose Delgado Rivera, photograph that I took on that day in
2 connection with this investigation. It is a photograph that I
3 took in the basement at the morgue of Jamaica hospital. That
4 white square object was not there when I took the photograph.

5 THE COURT: That was placed on the photograph at the
6 Court's direction, so that you would concentrate on other
7 aspects of the picture.

8 Q Turning your attention to 106-B, as in boy, what are we
9 looking at in this photograph?

10 A We are looking at a photograph depicting ballistics
11 damage, bullet holes or bullet wounds or shotgun wounds, to
12 the rear of Mr. Jose Delgado Rivera.

13 I recognize this to be a photograph that I took on
14 that day in connection with this investigation. It is a true
15 and accurate representation and it was taken at basement of
16 Jamaica hospital's morgue.

17 Q Just point out the wounds that you --

18 A I can point out -- I apologize -- one, two, three, four,
19 five, six, seven, eight nine, ten, I would call them,
20 projectile wounds because I can't tell you if they're from the
21 shotgun or the 380. However, there is one wound up here to
22 his back that I'm circling right now, and that is consistent
23 with the shot gun wadding, the one that I recovered on the
24 ground, one with blood on it. It is consistent with that.

25 THE COURT: Could you have him circle that -- the

Sherman - cross/ Sharkey

3216

1 witness circle that, please.

2 Q Yes.

3 Put your initials on it.

4 THE WITNESS: Just the wadding, okay (complied).

5 THE COURT: So I understand it, a pistol or other
6 like gun does not project wadding?

7 THE WITNESS: Correct, Your Honor.

8 The photograph was taken that day just to -- as
9 preliminary to show the wounds. These are other -- the other
10 ten, call them holes, if I could, the other ten are consistent
11 with either projectiles coming from the shotgun or the 380. I
12 can tell you that this wadding is not -- I apologize -- this
13 wound here, this large nickel size wound, quarter size wound
14 is consistent with the wadding that was recovered at the scene
15 that had quantity of blood on it.

16 THE COURT: That would drop from a --

17 THE WITNESS: Twelve gauge shotgun.

18 MS. SEIFAN: Thank you.

19 I have no further questions of this witness.

20 THE COURT: All right. Take the pictures.

21 CROSS-EXAMINATION

22 BY MS. SHARKEY:

23 Q Good afternoon.

24 A Good day, ma'am.

25 Q Is it Detective Sherman now or Mr. Sherman?

Sherman - cross/ Sharkey

3217

1 A You can call me Hal.

2 Q You can call me Kelly.

3

4 THE COURT: Use the witness' last name.

5 THE WITNESS: Howard Sherman, ma'am.

6 Q Sir, you've been involved in crime scene investigations
7 for a number of years, right?

8 A Yes.

9 Q Quite experienced, fair to say?

10 A Yes.

11 Q And one of the things that's important in a crime scene
12 investigation is something that's called crime scene
13 integrity, right?

14 A Yes.

15 Q And the whole point of evaluating a crime scene is to
16 collect evidence, right?

17 A Yes.

18 Q Record by photograph and diagram the evidence that's
19 collected, right?

20 A Yes.

21 Q And to know where within the crime scene the evidence is
22 collected, right?

23 A Yes.

24 Q And that's in the hopes that conclusions may be drawn
25 about the incident of interest from where that evidence is

Sherman - cross/ Sharkey

3218

1 collected, fair enough?

2 A That is a fair statement, ma'am, yes.

3 Q And in your line of work would it be accurate to say that
4 the per crime scene from which conclusions would be drawn is
5 frozen the moment the crime is completed, right?

6 A The sooner to the incident that a valid crime scene is
7 established the easier and better my work can be.

8 Q Now, you used the term "valid crime" scene both on direct
9 examination and just now. When you say "valid crime scene"
10 what you're referencing is a crime scene that's not tainted or
11 polluted, right?

12 A One in which crime scene tape was placed up and I can
13 tell from you seven o'clock or 7:05 when I arrived until I
14 finished my chores or task or functions that I did not note
15 anybody, shall we say, milling about or inside the crime scene
16 that might contaminate it, kick objects, or add or remove
17 objects.

18 Q But you arrived after emergency services attempted to aid
19 the victim, right?

20 A I only know at seven o'clock I can -- I use seven o'clock
21 as opposed to 7:05, I know what happened from then on. I
22 don't know what happened prior to my arrival, ma'am.

23 Q Fair enough.

24 Prior to your -- when you arrived, Mr. Delgado
25 Rivera was not there.

Sherman - cross/ Sharkey

3219

1 A You're correct.

2 Q And prior to you're arrival you are aware that the
3 emergency services and ambulance responded to the scene,
4 right?

5 A I know ambulances, I know uniform police, and such, yes.

6 Q And it would be accurate to say, would it not, that when
7 a scene is flooded with individuals attempting to resuscitate
8 or give such to an injured party crime scene objects of
9 interest may be dislodged, correct?

10 A How many people are we talking about in the word flood
11 that you used?

12 Q If one person enters a crime scene and kicks a shell
13 casing or a fragment that, in fact, corrupts the crime scene,
14 right?

15 A There is no perfect crime scene. You're right. As soon
16 as somebody walks in the Ricardian theory of crime scene
17 transference takes place where you can't enter or leave the
18 scene without changing it somehow.

19 Q And all of the objects that you testified about on
20 direct, specifically referencing the fragment and the shell
21 casings, except for the bullet impact mark, were movable
22 objects, right?

23 A Potentially, yes.

24 Q Well, when you say "potentially" you testified on direct
25 examination that all of them weighed about as much as a

Sherman - cross/ Sharkey

3220

1 cigarette butt, right?

2 A The two 380 auto discharge shells, shape and weight,
3 approximately the same as a cigarette butt. The 12 gauge
4 shotgun shell is considerably heavier.

5 Q Fair enough.

6 But you don't know withdrawn.

7 On direct examination you were careful to use
8 language saying that certain conclusions are inconsistent or
9 not inconsistent, correct?

10 A Yes, ma'am.

11 Q And that's because you're a pro, right?

12 A I like to think myself as such.

13 Q And that's because you don't know how many persons were
14 on that scene aiding the victim prior to the time that a crime
15 scene tape was put up around the scene, right?

16 A You are correct.

17 Q You also testified, sir, that it was windy out that day,
18 right?

19 A Yes.

20 Q Now, you testified on direct examination that there was a
21 cigarette butt that was recovered from the scene, right?

22 A Yes.

23 Q And you know if that cigarette butt was submitted for
24 testing?

25 A Unknown.

Sherman - cross/ Sharkey

3221

1 Q You do know in your experience that Amalaze is the
2 protein that's found in spit, right?

3 A Amalaze is found in spit and other secretions, yes.

4 Q Amalaze is a secretion that contains DNA, right?

5 A Yes, ma'am.

6 Q And as agree, you saw a cigarette butt, you recovered it
7 and you passed it on, right?

8 A Yes.

9 Q Do you know whether any efforts were made to determine
10 the make or the model of the -- withdrawn.

11 Do you know whether or not any efforts were made to
12 determine the model of the weapon that discharged the 380
13 shell.

14 A I do not know that.

15 Q Do you know whether or not any efforts were made to
16 determine the model of the shotgun that discharged shotgun
17 casing?

18 A I do not know that.

19 MS. SHARKEY: Nothing further.

20 THE COURT: Any redirect?

21 MS. SEIFAN: Nothing further.

22 THE COURT: Thank you, sir.

23 Do you have another witness.

24 Thank you. That will be all.

25 Take a ten minute break.

Patella - direct/ Seifan

3222

1 (Jury exited the courtroom)

2 THE COURT: Have you your next witness in place?

3 (Court recessed)

4 (Court resumed).

5 (Jury present)

6 THE COURT: Swear the witness please.

7 J O H N P A T E L L A ,

8 having been first duly sworn, was examined

9 and testified as follows: Witness sworn.

10 Please state and example your name for the reporter.

11 THE WITNESS: John P-A-T-E-L-L-A.

12 DIRECT EXAMINATION

13 BY MS. SEIFAN:

14 Q Good morning.

15 A Good morning.

16 Q How old are you?

17 A Sixty-four.

18 Q And what do you do for a living?

19 A I am retired.

20 Q What did you do prior to retirement?

21 A New York City Police Department.

22 Q How long did you serve in the New York City Police
23 Department?

24 A Twenty-three years.

25 Q What year did you retire?

Patella - direct/ Seifan

3223

1 A January of 1992.

2 Q What unit were you assigned to prior to retiring?

3 A The crime scene unit.

4 Q What is the crime scene unit?

5 A Crime scene unit helps investigators investigate crimes,
6 such as, photographing, collecting evidence, processing for
7 fingerprints, and such.

8 Q How long were you with the crime scene unit?

9 A Nine years.

10 Q And what was your rank?

11 A Detective.

12 Q Did you receive any special training?

13 A Yes.

14 Q To become a detective in the crime seen unit?

15 A Yes.

16 Q What was some of that training?

17 A Fingerprint training courses, FBI training courses,
18 photography courses, homicide investigative courses, and most
19 of it was on the job training with senior detectives.

20 Q Can you please tell the jury what other assignments you
21 had in the New York City Police Department prior to working in
22 the crime scene unit?

23 A I was a uniformed officer in the Tenth Precinct west
24 side, and in the Twenty-Third Precinct east side, Chinatown
25 for twelve years. I was a gang intelligence officer for three

Patella - direct/ Seifan

3224

1 years. I was in narcotics for three years prior to going into
2 the crime scene university unit.

3 Q I'm going to direct your attention to October 4th, 1990.
4 Were you working that day?

5 A Yes, I was.

6 Q Do you recall your shift?

7 A Yes, we worked two nine-hour shifts back to back. We
8 worked from two in the afternoon to eight the next morning.

9 Q Did there come a point in your shift when you responded
10 to a crime scene in Manhattan regarding a victim who had been
11 shot?

12 A Yes.

13 Q Where you respond to?

14 A World Trade Center parking garage.

15 Q Do you recall where in the garage?

16 A If I may?

17 MS. SEIFAN: Your Honor, permission for the witness
18 to refer to his notes to refresh his recollection?

19 THE COURT: Granted.

20 A The parking area of the garage was B 2, yellow section of
21 the World Trade Center.

22 Q This is an underground garage?

23 A Yes, it is.

24 Q Did you respond with anyone?

25 A My partner at the time was Detective Jean Judd.

Patella - direct/ Seifan

3225

1 Q Did you recall, approximately, what time you responded to
2 the World Trade Center?

3 A We received a call at the office about 4:00 p.m. and we
4 responded about 5:05. We got to the scene at 5:05.

5 Q Do you recall how long it took you to process the scene?

6 A I was finished by 8:00 p.m.

7 Q Do you recall the name of the victim?

8 A Yes. Louis DiBono.

9 Q And had the crime scene been secured by the time you
10 arrived there?

11 A Yes, it was.

12 Q What does it mean to secure a crime scene?

13 A A crime scene was secured by -- well, to cordon off the
14 area where the occurrence took place and there's secured by a
15 uniformed officer, detectives assigned. If there's a rope
16 there they would rope it off, or tape it off. If it's a large
17 area they'll just secure it with men around that area to keep
18 everyone out of the contaminated scene.

19 Q Please tell the jury what you observed when you first
20 arrived at the crime scene?

21 A There of the -- well, I was shown by the investigator
22 from the first precinct area where the victim was in his car,
23 and there was a few cars parked next to his.

24 Q What kind of car did you observe?

25 A There was a Cadillac and a Pontiac parked in the parking

Patella - direct/ Seifan

3226

1 spaces there.

2 Q And where was the victim located?

3 A Victim was laying across the front scene of the Cadillac.

4 Q What did you do next?

5 A Well, I was told that at the scene by the investigating
6 detectives that the vehicle was locked, there was no way to
7 enter the car, so we called emergency services to open the
8 doors for us.

9 Q What did you do while you were waiting for emergency
10 services?

11 A I photographed the scene.

12 Q I'm showing you what's been marked for identification
13 Government Exhibit 40-H. Do you recognize this photograph?

14 A Yes, I do.

15 Q What do you recognize it to be?

16 A Victim's car is on the right. It's a blue Cadillac.
17 We're looking at the rear portion of the car.

18 Q Is that a photograph that you took?

19 A Yes, it is.

20 Q Is it a fair and accurate depiction of the way the crime
21 scene looked on October 4th, 1990?

22 A Yes.

23 MS. SEIFAN: I move to admit Government
24 Exhibit 40-H.

25 THE COURT: 40-H is admitted.

Patella - direct/ Seifan

3227

1 (Government Exhibit 40-H received and marked into
2 evidence) .

3 Q I'm showing you what's been marked Government
4 Exhibit 40-G, as in girl. Take a look at this photograph.

5 A Yes.

6 Q Do you recognize it?

7 A Yes, I do.

8 Q What do you recognize it to be?

9 A That's also the victim's car looking at it from the
10 opposite side. Well, the next side, the right side.

11 Q Okay. Is it a fair and accurate depiction of the way the
12 car looked on October 4, 1990?

13 A Yes.

14 MS. SEIFAN: Your Honor, I move to admit 40-G.

15 THE COURT: Admitted.

16 (Government Exhibit 40-G received and marked in
17 evidence)

18 Q Trying to do this two at a time?

19 Showing you what's been marked for identification
20 Government Exhibits 40-E, and 40-F, do you recognize these
21 photographs?

22 A Yes, I do.

23 Q What do you recognize them to be?

24 A The victim's car from the front left side and right side.

25 Q Is that a fair and accurate depiction of the way the car

Patella - direct/ Seifan

3228

1 looked on October 4th, 1990?

2 A Yes it does.

3 MS. SEIFAN: I move to admit Government Exhibit 40-F
4 and 40-E.

5 THE COURT: Admitted.

6 (Government Exhibits 40-F and 40-E received and
7 marked in evidence)

8 Q Showing you what's been marked for identification as
9 Government Exhibit 40-B and 40-I, do you recognize these
10 photographs?

11 A Yes.

12 Q What do you recognize them to be?

13 A Photographs that I took of the shell casing on the floor
14 of the garage.

15 Q Okay. And is it a fair and accurate depiction of the way
16 they looked on October 4, 1990?

17 A Yes.

18 MS. SEIFAN: I move to admit Government
19 Exhibits 40-I and 40-B as in boy.

20 THE COURT: 40-I is admitted.

21 MS. SEIFAN: Yes.

22 (Government Exhibit 40-I received and marked in
23 evidence)

24 Q Finally I'm showing you what's been marked --

25 THE COURT: Admitted.

Patella - direct/ Seifan

3229

1 Q 40-C as in cat. Do you recognize these photographs?

2 A Yes.

3 Q What do you recognize them to be?

4 A It's the pictures of the victim laying on -- with the
5 doors open, laying inside the car on the front seat.

6 Q Is that a fair and accurate depiction you have seen on
7 October 4, 1990?

8 A Yes.

9 MS. SEIFAN: Permission for the witness to step
10 down.

11 THE COURT: Admitted.

12 (Government Exhibit 40-C received and marked in
13 evidence)

14 THE COURT: Are you not admitting D.

15 MS. SEIFAN: No.

16 (Witness stands down)

17 Q Okay. Let's start with Government Exhibit 40-H, can you
18 please tell the jury what we're looking at in this photograph?

19 A This is the victim's car parked in the lower level of the
20 World Trade Center. Ridiculous pale marks low identify the
21 location where the temporary cast marked columns that hold up
22 the build.

23 Q This is labeled J 15?

24 A Yes J 15.

25 Q Okay. What's this yellow line at the bottom right?

Patella - direct/ Seifan

3230

1 A It was either a rope or an electrical wire. I think they
2 used it, I can't recall positively, to rope off the area.

3 Q And this is the photograph of the car that you found the
4 victim in?

5 A Yes.

6 Q The blue Cadillac?

7 A Yes, has a white top. Yes.

8 Q Okay.

9 Turning to Government Exhibit 40-G, what are we
10 looking at in this photograph?

11 A This is the other side of the car, the rear of the car,
12 the license plate is L D. Identified the car as the victim's
13 car, Mr. DiBono.

14 Q Okay. I'm showing you 40-F as in Frank, could you
15 describe for the jury what we're looking at?

16 A The driver's side from the front of the car with, as best
17 as I could tell, with the wall behind me showing the side of
18 the car, and you can see the victim lying across the street.

19 Q So at this point the car was still locked?

20 A Yes.

21 Q And that is the victim, we can see that's his shirt?

22 A Umm-Humm yes.

23 Q And next to the -- next to the wheels of the car on the
24 driver's side, what is that tape on the ground?

25 A Yes. When I arrived at the scene they had marked where

Patella - direct/ Seifan

3231

1 the shell casings landed or were fond by putting tape down on
2 the ground.

3 Q Going to the next, Exhibit 40-E, what are we looking at
4 in this photograph?

5 A This is the passenger's side from the front of the car,
6 taken again by my back to the wall. And again, you can see
7 the victim's shirt and trousers laying on the front seat of
8 the car.

9 Q Where is the victim's head in relation to the --

10 A The victim's head is towards the passenger door, and his
11 feet are by the driver's door.

12 Q Can you identify -- can you see his feet in this
13 photograph?

14 A You can see one of his shoes sticking out (indicating).

15 Q Okay. Government Exhibit 40-I, tell the jury what we're
16 looking at in this photograph.

17 A Again, this is the side of the victim's car, this is the
18 rear passenger door on the driver's side and this is the tape
19 where they located the shell.

20 Q Turning next to photograph 40-B, what are we looking at?

21 A Again, this is J25 -- J26 rather. J25 and J15 is right
22 in front of that. The victim's car is parked here. The shell
23 casing here -- are found here and here, and this markings
24 here. I don't recall. It's a while ago. I think that was
25 marked as something they thought was a shell casing, but

Patella - direct/ Seifan

3232

1 probably was not. I don't know why it was taped off.

2 Q Okay. What are we looking at?

3 A Those are all columns.

4 Q They look to be like yellow and brown columns?

5 A Yes, the same as these columns. They are just different
6 markings. They are identified as the positions in the garage,
7 parking spaces, or whatever.

8 Q And they --

9 A Support columns.

10 Q They hold the garage?

11 A Support columns.

12 Q These support columns throughout the garage?

13 A Yes.

14 Q Okay. Now turning to Government 40-C, okay, what are we
15 looking at in the left photograph?

16 A In the left photograph after they opened -- the emergency
17 service unit opened up the cars doors I photographed into the
18 interior of the car from the passenger's side to show the
19 victim, how he was laying across the seat. His head, again,
20 by the passenger door and his feet by the driver's door.

21 Q What did the victim look like?

22 A Well, he was male white, heavyish, I guess obese, he
23 looked about in his 60s.

24 Q The bottom right of the photograph, could you tell what
25 that is? Tell the jury what that is. It looks like next to

Patella - direct/ Seifan

3233

1 cigarettes.

2 A The package of cigarettes here, and it was money. I
3 don't remember the denominations but there was money on the
4 floor of the car.

5 Q What is the significance of finding money in the car?

6 A Apparently not a robbery.

7 Turning to the right photograph of Government 40-C,
8 this is looking at the victim in the car from the driver's
9 side. Again, his head is by the passenger door, his feet seem
10 to be pushed in or stuffed into the car, so they can close the
11 door.

12 Q I'm sorry. You said it looked like it was stuffed in,
13 what do you mean by that?

14 A That you can see the way the feet was were tucked in
15 here, that's not a normal position for anyone to be in a car.
16 His feet were like lifted and pushed into that corner behind
17 the seat so they can close the door.

18 Q He was laying on his right side?

19 A He's on his right side, yes.

20 Q Okay. Please resume your seat?

21 A (Witness complied)

22 Q Detective Patella, do you recall whether you found any
23 blood in the car?

24 A Yes, I found one drop of blood on the upper portion of
25 the driver's seat.

Patella - direct/ Seifan

3234

1 Q When you say "one drop"?

2 A One drop of blood. It's like an eighth of an inch big.

3 Q And as an investigator what is the significance of only
4 finding, like, a drop of blood in the car.

5 A For the amount of times that the victim was shot, to me
6 it seemed to me that he was not shot inside the car, he was
7 shot outside the car.

8 Q In addition to taking photographs, what did you do?

9 A We processed the -- I processed the vehicle -- the
10 victim's vehicle for possible fingerprints, and also, the car
11 next to it.

12 Q What else did you do?

13 A Collected the evidence, packaged it, marked it and
14 packaged it. It was turned over to a Police Officer Hanlon
15 (ph) from the first precinct for vouchering.

16 Q Now, what kind of evidence did you collect at the scene?

17 A At the scene --

18 Q The photographs, you indicated that there were shell
19 casings?

20 A Shell casings were on the floor. There were three shell
21 casings, there were are 25 automatics. They were packaged and
22 marked, and there were also deformed bullets that fell from
23 the victim's clothing as the medical examiner was removing his
24 clothing to examine the wounds.

25 Q Were you present when the medical examiner --

Patella - direct/ Seifan

3235

1 A Yes, I was.

2 Q Examining the victim?

3 A Yes.

4 Q What did you observe?

5 A Well, there were multiple wounds on his shoulder, neck.

6 I believe he had one on his left side. It was either under
7 the armpit or just below that. I can't recall right now.

8 Q So just take us through. There was one in his armpit?

9 A Yes, on the left side. There was bullet grazes, or
10 bullet -- where they glanced off his skin into his head,
11 behind his ear, in this area here.

12 Q I'm sorry.

13 Can you just describe for the jury, you said grazing
14 the skin. Where on his body.

15 A On his shoulder, the rear portion of the shoulder, the
16 top portion of the shoulder. There was like grazes and little
17 bullet wound there and behind his left area into the skull.
18 Exactly how many, I don't know.

19 Q So you saw bullet wounds sort of his chest area, shoulder
20 and head area?

21 A On the left side, yes.

22 Q They are all on the left side, you recall?

23 A Yes.

24 Q On the left side?

25 A All the left side.

Patella - cross/ Sharkey

3236

1 Q And what did you do with the evidence that you collected?

2 A It was packaged and marked with my initials on it, and it
3 was turned over to the Police Officer Hanlon from the First
4 Precinct.

5 Q Did you have any further involvement into the
6 investigation of the homicide of Mr. DiBono after you
7 collected the evidence?

8 A No.

9 MS. SEIFAN: No further questions.

10 CROSS-EXAMINATION .

11 BY MS. SHARKEY:

12 Q Hello, sir. How are you?

13 A Hi.

14 Q You took photographs of the crime scene, right?

15 A Yes.

16 Q And you were working with a partner that day, right?

17 A Yes.

18 Q Detective Spinelli?

19 A No, Detective Judd.

20 Q Detective Spinelli was the assigned detective?

21 A I believe so, yes.

22 Q And you identified some photographs this morning, right?

23 A Yes.

24 Q Have you ever testified using these photographs before?

25 A These particular photographs?

Patella - cross/ Sharkey

3237

1 Q Yes.

2 A No.

3 MS. SEIFAN: Objection.

4 Q Photographs that were taken at the World Trade Center
5 garage?

6 MS. SEIFAN: Objection.

7 THE COURT: Overruled. You may answer.

8 Q Do you know if your photographs were ever used in any
9 other court proceeding?

10 A No.

11 Q Do you know if they weren't or you don't know?

12 A I don't know if they were or not.

13 Q Do you no know if the photographs were utilized at any
14 other trial?

15 A No.

16 Q Now, Detective, you testified on direct examination that
17 you dusted the car for fingerprints, right?

18 A Yes.

19 Q And in fact, fingerprints of value were recovered, right?

20 A They looked like they were of value, yes.

21 Q Well, if you would like to use your report to refresh
22 your recollection?

23 A Umm-Humm.

24 Q Please do so.

25 A Okay (perusing). Okay.

Patella - cross/ Sharkey

3238

1 Q And it would be accurate to say that you would be able to
2 recover fingerprints from the exterior door from that vehicle,
3 right?

4 A From the door frame, yes. Of the victim's vehicle, yes.

5 Q For the members of the jury, when you say "door frame"
6 what do you mean?

7 A The frame -- the portion of the door that surrounds the
8 window.

9 Q And would that be the driver's side or the passenger's
10 side?

11 A The driver's side.

12 Q And you also recovered a fingerprint from the steering
13 wheel emblem, right?

14 A Yes.

15 Q When you write steering wheel emblem, where is that, for
16 purposes for the jury to know where that was recovered?

17 A Right in the center of the steering wheel there is a
18 portion that you would blow the horn, in between those --
19 where you blow the horn there would be an emblem of the make
20 of the vehicle, the Cadillac being in this case.

21 Q And you also recovered a fingerprint from the rear
22 fender, right?

23 A Yes.

24 Q The right side trunk lid?

25 A Yes.

Patella - cross/ Sharkey

3239

1 Q Two from the right side trunk lid, right?

2 A Correct.

3 Q The left door exterior, right?

4 A That's from the other vehicle.

5 Q That would be the vehicle next to the blue Cadillac?

6 A Next to him, yes.

7 Q And you also recovered other fingerprints from that car
8 parked next to the blue Cadillac, right?

9 A Yes, yes, I did.

10 Q You know that those fingerprints that were recovered from
11 the Cadillac were, in fact, compared to other persons, right?

12 A As far as I know, they were -- they should have been. I
13 don't know if they were or not.

14 Q Well, in your experience as a crime scene investigator,
15 correct me if I'm wrong, but what nominally happens is if you
16 lift a print that print is then compared to other persons,
17 right?

18 A Yes, it's attempted to.

19 Q And when that print is compared to other persons there's
20 a report that's generated; isn't that correct?

21 A Yes.

22 Q And that report is a result of a latent print evaluation,
23 right?

24 A Yes.

25 Q And so the jury knows, tell the members of the jury what

Patella - cross/ Sharkey

3240

1 a latent print is?

2 A Latent fingerprint is when you touch a surface your hands
3 give off certain amounts of moisture. That moisture forms
4 around the ridges of your fingers. There are lines on your
5 fingers and when you touch the surface that moisture stays on
6 that surface and it leaves a latent fingerprint unseen to the
7 eye at that point.

8 Q And a fingerprint is deemed to be unique to the
9 individual who deposited it on the surface, right?

10 A Yes.

11 Q And that depends on the number of characteristics that
12 are detected within the print, right?

13 A Yes.

14 Q And when a print is of value it's a print that has enough
15 characteristics that an expert, such as yourself or someone in
16 the crime scene unit, can make a comparison to; right?

17 A Not myself, no. It would be a latent fingerprint. They
18 have a latent fingerprint unit that is expert in identifying
19 and comparing prints. I don't do that.

20 Q Fair enough.

21 But what you do is you lift the prints and you refer
22 them for further testing, right.

23 A I submit them for testing, yes.

24 Q And that's what you did in this case?

25 A Yes.

Patella - cross/ Sharkey

3241

1 Q And you are aware that the prints of Charles Carneglia
2 were compared to those prints and there was no match; isn't
3 that correct?

4 A I'm not aware of that, no.

5 Q You just testified on direct examination that you're
6 familiar with the police department form of the results of a
7 latent print, right?

8 A Yes.

9 Q Let me show you what I'd like deemed marked as Defense
10 Exhibit M, I believe we are up to, Your Honor?

11 Your Honor, here's a copy.

12 THE COURT: Thank you.

13 Q Do you recognize the document that I've just given you as
14 a police department latent print section results?

15 A Yes.

16 Q And do you recognize that as a police report that's kept
17 in the normal course of business?

18 A Yes.

19 Q Correct?

20 A Yes.

21 Q And do you recognize that as a print evaluation report
22 that compares the prints that you lifted to Charles Carneglia?

23 A Yes.

24 MS. SHARKEY: Judge I would ask that what's been
25 deemed marked as Defense Exhibit M in Mary be moved into

Patella - cross/ Sharkey

3242

1 evidence.

2 MS. SEIFAN: Objection Your Honor.

3 THE COURT: What did you say?

4 MS. SEIFAN: I am saying I object.

5 THE COURT: You object? Overruled.

6 (Defendant Exhibit M received and marked into
7 evidence)

8 Q Detective, Defense M is now in evidence. The prints that
9 were submitted by you were compared to Charles Carneglia,
10 right.

11 A According to the report yes.

12 Q And in fact, those prints don't match Charles Carneglia,
13 do they?

14 A According to the records, yes.

15 Q Those prints were also compared to Kevin McMahon?

16 A Again, according to the report, yes.

17 Q And those prints don't match Kevin McMahon, right?

18 A According to the report, yes.

19 Q Now, you testified that because of the blood, correct me
20 if I'm wrong, that you saw there was a little amount of blood
21 that you saw inside the car caused you to believe that
22 Mr. DiBono must have been shot outside the car?

23 A Yes.

24 Q You didn't note anywhere in your report, did you, that
25 there was blood recovered from the World Trade Center garage?

Patella - redirect/ Seifan

3243

1 A No, there was not.

2 Q When you say "no there was not" you didn't see any blood
3 in The World Trade Center garage?

4 A Correct.

5 Q You examined that scene, right?

6 A Yes.

7 Q In fact, you walked around, photographed and looked
8 around until the emergency service unit came and was able to
9 open the door, right?

10 A Yes.

11 Q And you testified about shell casings that you found on
12 the garage floor, right?

13 A Yes.

14 Q You don't know if they had been kicked about, removed
15 prior to your arrival, right?

16 A No, I don't.

17 MS. SHARKEY: Nothing further. Thank you, sir.

18 RECROSS EXAMINATION

19 BY MS. SEIFAN:

20 Q Detective, you said that you found a drop of blood on the
21 seat of the driver's side of the car?

22 A Yes.

23 Q But you didn't find any blood outside the World Trade
24 Center?

25 A None.

3244

1 Q Did you see blood though when you arrived at the crime
2 scene on the victim?

3 A It was -- well, you can look through the windows of the
4 car and you could see blood on him, yes.

5 Q And when you were there you were present when the medical
6 examiner removed Mr. DiBono from the car?

7 A There was a great deal of blood on the victim, yes.

8 Q Where was that blood?

9 A On his clothing, in his clothing, on his body.

10 Q Was it just around where he had been shot or did you
11 notice?

12 A Well, from the head wounds it was running down his
13 clothing, yes.

14 Q If someone were to cover their hand with a piece of
15 clothing and touch a car would they leave a print?

16 A No.

17 MS. SEIFAN: No further questions.

18 MS. SHARKEY: No questions.

19 THE COURT: Thank you, sir. Next witness.

20 MR. NORRIS: The government calls Carmine Russo.

21 THE COURT: Carmine Russo, is he the one from Kirk &
22 Russo?

23 MR. NORRIS: No. I apologize. There's an addition
24 to the list. He's someone else.

25 C A R M I N E R U S S O ,

Russo - direct/ Norris

3245

1 having been first duly sworn, was examined

2 and testified as follows:

3 DIRECT EXAMINATION

4 BY MR. NORRIS:

5 Q Good morning, sir.

6 A Good morning.

7 Q Where are you employed?

8 A I am currently employed by the Standard Charter Bank in
9 Manhattan.

10 Q How long have you been with that bank?

11 A April of 2008.

12 Q What do you do?

13 A Investigator in the compliance department.

14 Q Have you held jobs as an investigator prior to Standard
15 Charter bank?

16 A Yes. For about since 2002 I've been an investigator.

17 Q And what did you do prior 2002?

18 A I was employed by the Federal Bureau of Investigation as
19 special agent.

20 Q For how long?

21 A Twenty-four years.

22 Q Did you hold other jobs in law enforcement before you
23 joined the FBI?

24 A Yes, I was employed by the New York State Attorney
25 General's Office, Office of the Special Prosecutor for five

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1 years. Prior to that almost three years with the New York
2 City Police Department as an investigative assistant analyst.

3 Q What did you do prior to that?

4 A Served one year on Wall Street after my discharge from
5 the United States Navy.

6 Q And before that with the Navy, what was your position in
7 the Navy.

8 A Enlisted in the Navy in 1965, and I was tried to be radio
9 man.

10 Q What?

11 A Something that we don't use any more.

12 Q Tell the jury what it means to be a radio man?

13 A Yes, back then I was trained to listen to Morse Code and
14 at the same time we were taught to be teletype operators.

15 Q And what is a teletype operator.

16 A Back then it was an electronic communications via means
17 of using a teletype.

18 Q Can you briefly summarize the positions you held when you
19 first joined with the FBI?

20 A Upon my appointment in April of 1978 at the FBI Academy I
21 graduated in August of '78. I received my orders to report to
22 the New York division in August of 1978. Upon my arrival to
23 the New York Division I was assigned to the FBI office in
24 Queens, Rego Park, where I served from 1978 until my
25 appointment as supervisor of headquarters in 1984.

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1 Q And what did you do in the years prior to you're going to
2 headquarters in 1984?

3 A When I was first assigned to the Rego Park office I was
4 assigned to a one year on the bank robbery squad. During that
5 time I was also asked to assist in organized crime cases that
6 were being conducted in other divisions.

7 Q And did you ultimately join an organized crime squad?

8 A Yes. In 1980 the Bonanno squad was formed in the
9 Brooklyn-Queens office in Rego Park and I was one of the
10 agents assigned to that squad.

11 Q And what happened in 1984 after you went to headquarters?

12 A Upon my arrival to headquarters in August of 1984 the
13 Director of the FBI, at that time, Judge Webster pointed me to
14 assistant legal attache at the American Embassy in Rome.

15 Q How long were you at Rome?

16 A I served in that capacity until July of 1989 when I
17 returned to New York.

18 Q What were your responsibilities as assistant attache in
19 Rome?

20 A My primary responsibilities were to coordinate and act as
21 liaison with the Italian authorities, including law
22 enforcement and judicial authorities, in handling all of
23 organized crime and drug cases being conducted between our
24 countries at that time.

25 Q And when did you return to the United States?

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1 A July of 1989.

2 Q And what did you do then?

3 A I was assigned to the Lucchese Squad Brooklyn-Queens at
4 the Rego Park office.

5 Q How long did you stay with the Lucchese squad?

6 A Approximately until January of 1990.

7 Q What did you do then?

8 A In January 1990 I was assigned to the Gambino squad.

9 Q How long did you stay in the Gambino squad?

10 A Until December of 1997 -- I am sorry, December of 1996.

11 Q What were your positions up to time you retired from the
12 FBI after that?

13 A In 1996 Director Freed assigned -- appointed me attache
14 to the American Embassy in Rome. I was in Rome. I remained
15 there for about three and a half years. Returned to the
16 United States in end of July 2000, and I was then assigned to
17 the Newark Division, Garret (ph) Mountain R A, supervisor for
18 a drug squad, organized crime squad.

19 Q Can you estimate how much of your career you spent
20 investigating organized crime?

21 A Between my prior employments, prior to the FBI, I would
22 say, about the 32 years, about 31, 32 years. I'm sorry.
23 Thirty years spent working organized crime matters.

24 Q You testified that your first organized crime squad was
25 with the FBI with the Bonanno squad which you joined in 1980,

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1 correct?

2 A That's correct.

3 Q After you got back from Rome in 1989 in July you joined
4 the Lucchese squad, correct?

5 A That's correct.

6 Q What were your primary duties with the Lucchese squad?

7 A Investigation of the organized crime matters pertaining
8 to that specific family.

9 Q And while you were with the Lucchese squad did you deal
10 exclusively with cases dealing with that family?

11 A No, not at all.

12 At that same time I learned that there was another
13 investigation targeting another family in the office and I was
14 asked to assist in that investigative aspect at that time.

15 Q Which family was that?

16 A That was the Gambino family.

17 Q And when, approximately, were you asked to join the
18 investigation into the Gambino family?

19 A I believe it was some time in November of 1989.

20 Q And the short time after that you ultimately joined the
21 Gambino squad?

22 A Yes, I did.

23 Q Who was the primary target of the investigation that you
24 were asked to join?

25 A The primary interest at that time was John Gotti.

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1 Q And can you tell the jury who some of the other targets
2 were?

3 A Yes, Frank Locascio; Salvatore, Sammy the bull, Gravano;
4 Thomas Gambino, and others.

5 Q You mentioned the name Frank Locascio, did you become
6 familiar with whether he had a nickname during the course of
7 your investigation?

8 A Yes, he was also referred to as Frankie Look.

9 Q And Salvatore Gravano, I take it, he was referred to as
10 Sammy the bull?

11 A Sammy the bull.

12 Q Did you become familiar with the name Louie DiBono during
13 the course your investigation?

14 A Yes, I did.

15 Q And did you become familiar with his nickname?

16 A Yes.

17 Q What was it?

18 A Jelly belly.

19 Q Is Mr. DiBono alive or dead?

20 A He's dead.

21 Q Showing you what's in evidence as Government Exhibit 2-P,
22 who is that?

23 A John Gotti.

24 Q Showing you what's in evidence as Government
25 Exhibit 2-DDD?

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1 A Frank Locascio, also known as, Frankie Look.

2 Q And showing you what's in evidence as Government
3 Exhibit 2-R, who is that?

4 A Salvatore Gravano, also known as, Sammy the bull.

5 Q And showing you what's in evidence as Government
6 Exhibit 2-SS, who is that?

7 A Louie DiBono.

8 (Continued on next page)

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1 EXAMINATION CONTINUES

2 BY MR. NORRIS:

3 Q Did the Gotti investigation involve eavesdropping?

4 A Yes.

5 Q What type?

6 A We had bugs placed at a location in Manhattan, at a
7 social club called the Ravenite Social Club, on Mulberry
8 Street, in Manhattan.

9 Q You mentioned the word "bug." What is that?

10 A It is a device that is planted within a location in order
11 to provide law enforcement authorities the opportunity to
12 overhear conversations occurring at that time.

13 Q What does a bug do?

14 A It picks up audible conversations or noises, background
15 noises, principally of course audible conversation, that is,
16 of law enforcement interest.

17 Q You mentioned the social club Ravenite. Why was the
18 Ravenite targeted?

19 A That was John Gotti's meeting place for him and the rest
20 of his associates.

21 Q Are you familiar with the term wiretap?

22 A Yes.

23 Q Is that another form of eavesdropping?

24 A Yes, it is.

25 Q What's a wiretap?

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1 A It involves the opportunity to conduct electronic
2 surveillance over a telephone.

3 Q Can you estimate approximately how many times over the
4 course of your career that you have participated in
5 investigations involving either wiretaps or bugs?

6 A At least twelve times.

7 Q Is any type of authorization required to obtain a bug or
8 a wiretap?

9 A Yes.

10 An affidavit is prepared by an agent, as well as an
11 order, which is signed by a judge, who at that time will then
12 look at the affidavit and sign the order authorizing the
13 interested agency into conduct surveillance.

14 Q Briefly, what does the affidavit need to contain?

15 A Probable cause to believe certain criminal activity is
16 being conducted at that location by certain individuals.

17 Q If it is obtained, how long is the court authorization
18 good for?

19 A Authorization is given for thirty days.

20 Q What happens at the end of thirty days?

21 A If sufficient probable cause and information is obtained
22 in the previous thirty days, an extension order is also
23 provided by a judge, utilizing an affidavit also.

24 Q If authorization to conduct eavesdropping is obtained,
25 are there types of conversations that agents are not allowed

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1 to listen to?

2 A Yes.

3 I am familiar with two of them. It's
4 attorney-client and clergy-penitent.

5 Q Are you familiar, sir, with the term "minimization"?

6 A Yes, I am.

7 Q What does that mean?

8 A Minimization is a technique that is utilized during a
9 electronic surveillance, whereby if you are in the process of
10 recording a conversation which is non-pertinent, you are
11 allowed -- you turn off the conversation and monitoring and
12 recording of that conversation.

13 After an amount of time, anywhere from one minute,
14 two minutes, three minutes, you are authorized to go back in
15 and start recording again, listening again, ascertaining
16 whether that conversation is pertinent to your investigation.
17 If not, you minimize again, by shutting down the recording
18 device.

19 Q Okay. Now turning back to focus just on conversations
20 that are pertinent to a criminal investigation. Are those
21 conversations monitored live in some fashion?

22 A Yes, they are.

23 Q How so?

24 A I would be sitting at a desk with a tape recorder that is
25 running at the same time that I am also taking down notes and

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1 contemporaneously I would take down summarizations of
2 conversations that I am recording at that time.

3 Q Where would -- where are the desks located where you
4 conduct the monitoring?

5 A At a plant.

6 Q What's a plant?

7 A It is a term that we use to -- that is utilized to
8 conduct the eavesdropping, wiretap, where it is being
9 conducted. At location away from the target location.

10 Q Off site?

11 A That's correct.

12 Q Are steps taken to record the conversations that are
13 being monitored?

14 A Yes.

15 Q What?

16 A Recorder is turned on while the conversation is ongoing
17 and contemporaneously we take down notes on line sheets,
18 basically it is a report form. That we call line sheets. We
19 basically summarize the conversation that is taking place at
20 that time.

21 Q When you were conducting wiretaps and bugs
22 investigations, what types of media were the conversations
23 recorded on to?

24 A In my time, they were on nine-inch reel-to-reel tapes.

25 Q Once the conversation is concluded, what was done with

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1 those reel-to-reel tapes?

2 A At the end of the night or afternoon, whenever the
3 eavesdropping occurred, recording occurred, the tape would be
4 sealed, put in an envelope, brought back to the office and put
5 in a safe.

6 Q Okay. Turning back to the eavesdropping at the Ravenite
7 on Mulberry Street in Manhattan. What kind of building was
8 the Ravenite Social Club housed in?

9 A It was an apartment building located on Mulberry Street.
10 I don't recall the cross street at this time.

11 Q Single-family?

12 A Multifamily dwelling at the time.

13 Q How many bugs were placed in the Ravenite at the time?

14 A When I first began my surveillance activities at the
15 Ravenite I understand there were two initial bugs. One was
16 located in the club, the Ravenite, on the street level, as
17 well as a bug placed on an adjacent hallway next to the club.

18 Q That hallway was on the first floor next to the club?

19 A That's correct.

20 Q Subsequently was there a third bug placed?

21 A Yes.

22 Q Where?

23 A An apartment located above the Ravenite.

24 Q Why did that bug get placed in addition to the other two?

25 A We were learning through the investigation and listening

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1 to John Gotti and others in the club that there came upon a
2 time that Gotti and others we couldn't hear them in the club
3 or the hallway. That went on for a few weeks.

4 Based on information that we then obtained, we
5 learned that Gotti was not leaving the building at all. He
6 wasn't going outside. But he was going somewhere within the
7 building.

8 That somewhere was an apartment located above the
9 Ravenite. With the information that was provided to us and
10 the probable cause that we obtained, we were able to obtain
11 authorization from a judge to place a bug in that apartment.

12 Q Had a judge also authorized the prior two bugs as well?

13 A That's correct.

14 Q Do you recall whose apartment that third bug was placed
15 in?

16 A Mrs. Cirelli, C I R E L L I.

17 Q Do you recall whether she had a husband?

18 A Yes.

19 Q Do you recall what his name was?

20 A His name was Mike.

21 Q When you joined the Gotti investigation in late 1989, did
22 you have any duties relating to the Ravenite eavesdrop?

23 A Yes.

24 Q What?

25 A I was one of the monitors.

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1 Q At the off site plant?

2 A That's correct.

3 Q Specifically, where was the plant?

4 A One of our offices, in the -- one of our spaces in the
5 Manhattan FBI office.

6 Q 26 Federal Plaza?

7 A Yes.

8 Q Are you aware of whether other types of surveillance were
9 being conducted of the Ravenite at that time as well?

10 A Yes.

11 Q What?

12 A Video and photographic surveillance conducted from an off
13 site, in the vicinity of the Ravenite.

14 Q Now, you testified before that when you'd be monitoring a
15 bug, you would turn on a tape recorder and listen to the
16 conversation; is that correct?

17 A Yes.

18 Q So would you be listening to the conversations as they
19 happened?

20 A Yes.

21 Q Would you do that alone or would multiple agents conduct
22 the monitoring?

23 A We had three bugs going on at the same time and one agent
24 would be sitting at the monitoring location, monitoring that
25 specific bug.

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1 Q You mentioned the term "line sheets" before, the notes
2 agents would take while they were listening to conversations.
3 Is that correct?

4 A Yes.

5 Q Are those verbatim notes of every word that was said?

6 A I would like to, but for the most part they were
7 summaries of the conversation that was ongoing at that time.

8 Q Were you monitoring any of the Ravenite bugs on
9 December 12, 1989?

10 A Yes.

11 Q Which one?

12 A The hallway bug.

13 Q How did you come to be working the bug that day?

14 A That was part of my assignment, and upon reporting to the
15 plant, that was one of the positions that I sat down and
16 conducted my work.

17 Q Do you recall any of the people who you overheard in the
18 hallway that day?

19 A In particular, John Gotti and other individuals who at
20 this time I don't recall.

21 Q Do you know whether John Gotti was also overheard
22 anywhere else in the Ravenite on that day?

23 A Yes.

24 Q Where?

25 A In the apartment.

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1 Q How do you know?

2 A I transcribed the conversation that was conducted between
3 him and Frank Locascio that evening.

4 Q Approximately --

5 THE COURT: This is what year? What year?

6 THE WITNESS: It was December 12, 1989, Judge.

7 THE COURT: Thank you.

8 Q That was the date of the conversation, correct?

9 A That's correct.

10 Q When were you assigned to transcribe the conversation?

11 A Sometime in early 1990.

12 Q Was the conversation short or long?

13 A It was a long conversation, lasting approximately one
14 hour.

15 Q How long did it take you to complete the transcript?

16 A Many, many days.

17 Q Can you explain to the jury what steps you took to
18 transcribe the recording of the apartment above the Ravenite
19 on December 12, 1989?

20 A When I was assigned to the squad, there was another agent
21 who initially was given the responsibility of transcribing the
22 conversations that we overheard and recorded over the
23 Ravenite. That agent was ultimately transferred to another
24 division and I volunteered to take over those
25 responsibilities.

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1 At that time rough drafts of the conversations had
2 already been prepared. And once taking over those duties, I
3 normally listened to the conversation throughout, using the
4 draft of that transcript, to help me to learn the voices and
5 to see what else I could pick up from the inaudible portions
6 that undoubtedly were listed on the rough draft.

7 When I became comfortable with the voices, I would
8 start from the beginning again and either use that transcript
9 that was prepared before or my own from -- using a -- a yellow
10 pad, white pad, and transcribe the conversation verbatim.

11 Q What recording would you listen to to create your
12 transcript?

13 A It is a duplicate recording made of the original tape.

14 Q Was that duplicate recording made at the same time as the
15 actual conversation taking place?

16 A Yes.

17 Q That was a reel-to-reel recording?

18 A Yes.

19 Q Approximately how many times did you work off --
20 withdrawn.

21 Approximately how many times did you listen to that
22 recording in order to create your transcript?

23 A Hundreds of hours.

24 Q Even after you finished that draft in early 1990, were
25 there parts of the conversation that were still inaudible to

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1 you?

2 A Yes.

3 Q Was that recording important to your investigation?

4 A In my estimation, at that time -- and I was very vocal
5 about this -- it was the most important conversation that was
6 recorded in that investigation.

7 Q Did you transcribe other recordings from the Ravenite
8 bugs as well?

9 A Yes.

10 Q Approximately how many during the course of the
11 investigation?

12 A Hundreds.

13 Q Were you assigned to transcribe another recording from
14 the apartment above the Ravenite that took place on January
15 24, 1990?

16 A Yes.

17 Q Did you have any role in monitoring that recording as it
18 happened?

19 A No.

20 At that time I was assigned to the FBI office in
21 Rego Park.

22 Q Approximately how long after the recording was made did
23 you create the transcript?

24 A It would have been probably months after it was recorded.

25 Q Were you -- when you were assigned to transcribe the

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1 recording, did you again listen to a reel-to-reel recording
2 that had been made at the same time the conversation took
3 place?

4 A Yes.

5 Q Again, how many times did you listen to that recording to
6 create this second transcript?

7 A Again, many, many hours.

8 Q Was this conversation a short one or a long one?

9 A It was also a long conversation, lasting about an hour,
10 maybe a little more than that.

11 Q Was that conversation important to the investigation as
12 well?

13 A Yes, it was.

14 Q I'm showing you what's been marked for identification as
15 Government Exhibits 302 and 303.

16 Do you recognize those?

17 A Yes.

18 Q What are they?

19 A First is a cassette recording of Government Exhibit 302,
20 of a conversation that occurred on December 12, 1989.

21 Q What is recorded as Exhibit 303?

22 A It is an Exhibit 303, cassette recording of a
23 conversation occurring on January 24, 1990.

24 Q How do you recognize them?

25 A My initials are on the tapes.

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1 Q Are those the original reel-to-reel recordings that you
2 have listened to to create the transcripts?

3 A No.

4 These are duplicate recordings made from the
5 original.

6 Q Have you reviewed portions of those two cassette tapes in
7 front of you in advance of your testimony here today?

8 A Yes, I have.

9 Q Were the portions that you listened to a fair and
10 accurate recording of what you transcribed nearly twenty
11 years ago?

12 A Yes.

13 Q I am showing you what's been marked for identification as
14 Government Exhibits 302-A and 303-A.

15 These are not on the exhibit list, Your Honor.

16 Do you recognize those?

17 A Yes, I do.

18 Q What are they?

19 A The first that I am holding in my hand is a portion of
20 the transcript that I made of a conversation occurring on
21 December 12, 1989, between Frank Locascio and John Gotti.

22 Q That's 302-A?

23 A Yes, it is.

24 Q What is 303-A?

25 A Again, it's a very short excerpt of a conversation that

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1 occurred at the Ravenite Social Club on January 24, 1990.

2 Q The --

3 A Between --

4 Q Pardon me?

5 A I'm sorry. It is between John Gotti, Salvatore Gravano,
6 Frank Locascio.

7 Q How do you recognize those two transcripts?

8 A I placed my initials on both of these exhibits.

9 Q Again, are those excerpts in 302-A and 303-A taken from
10 the original transcripts that you yourself created for those
11 two dates?

12 A That is correct.

13 Q Has all but the excerpt that you have left there been
14 redacted from those transcripts?

15 A That's correct.

16 MR. NORRIS: We offer Exhibits 302, 302-A, 303 and
17 303-A.

18 THE COURT: They are all admitted with the
19 transcripts, as you understand, for your assistance.

20 (So marked.)

21 MR. NORRIS: Permission to hand up transcripts, Your
22 Honor?

23 THE COURT: Yes. Granted.

24 MR. NORRIS: To assist the jury.

25 And the headsets as well, Your Honor. We would like

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1 to do the recording with headsets.

2 THE COURT: All right.

3 (Pause.)

4 MR. NORRIS: With the court's permission, these are
5 short recordings, approximately a minute. With the Court's
6 permission, we would like to play them three times each, once
7 so the jury can get acquainted with the transcript and the
8 headsets and the second time so they can hear it again and
9 then the third time just a slightly slower speed to enable --

10 THE COURT: Yes.

11 MR. NORRIS: Thank you.

12 Q Before we play the tapes, I will just ask you one
13 question.

14 The transcripts identify who was speaking at certain
15 times. How do you know that the transcript correctly
16 identifies the speaker?

17 A I have spoken to John Gotti in the past as well as Frank
18 Locascio. I have also -- I'm sorry. I correct that.

19 I have spoken to John Gotti and to Sammy Gravano.
20 Frank Locascio's voice is known to me based on the fact of my
21 listening and transcribing the conversations where he is
22 referred to as "Frank" by either Gotti or Gravano. Of course,
23 I was then able to determine whose voice was speaking at the
24 time.

25 Q Are you confident that when the transcript says who is

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1 speaking that's correct?

2 A Yes.

3 MS. SHARKEY: Objection.

4 THE COURT: Overruled.

5 Q Now, there is also a notation in one of the transcripts
6 that I would like you to explain, IA. What does that mean?

7 A That was the denomination of inaudible.

8 Q What does inaudible mean?

9 A Incomprehensible or unable to be understood, could not be
10 listened to.

11 Q What, sir, is the quality of the recordings that the jury
12 is about to hear?

13 A It's something like this room. The acoustics are
14 probably very good because we are in a closed position, but in
15 many times during my surveillances of electronic, listening to
16 conversations, it all depended on the environment that was
17 surrounding that particular event, people speaking.

18 For example, at the Ravenite Social Club, on the
19 ground level, there were multiple people speaking at the same
20 time which made it a little difficult to make out the
21 conversations.

22 The hallway, where Gotti and others would go to
23 speak and have some privacy, made it a little easier, but the
24 acoustics of the hallway were such that it was sometimes very
25 difficult to also hear there.

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1 The apartment tapes are a lot different. The
2 apartment tapes, although the radio was playing in the
3 background and the individuals partaking in the conversation
4 would also speak in a soft voice, whispering at times, the
5 walking, the coughing, that would make sometime a particular
6 sentence to be fragmented. But the recordings on a par based
7 on the club level and the hallway were much better in the
8 apartment.

9 Q In this first conversation from December 12, 1989, who
10 were the speakers that the jury will hear?

11 A The only two speakers in the December 12th conversation
12 were John Gotti and Frankie Locascio.

13 Q Is one of those speakers easier to hear than the other?

14 A Yes.

15 Q Which one?

16 A John Gotti.

17 Q Are there any background sounds that the jury is going to
18 hear on this tape?

19 A Yes.

20 There is music playing in the background.

21 MR. NORRIS: Judge, before we begin, may I have
22 permission to explain briefly to the jury how to use the
23 headsets?

24 THE COURT: Yes.

25 MR. NORRIS: Okay. Take your headsets. Make sure

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1 that the word Sennheiser is pointed towards the receiver and
2 you can put it in your ears like this.

3 There is a little switch on the right and if you
4 turn from on to off or from off to on, you will hear a little
5 click. As you keep pushing it, the volume increases.

6 I would suggest that you start relatively low and
7 then just -- you will hear both from the speakers and this
8 will supplement it. You can move it as you are listening to
9 see what gets it to the right point for you.

10 Before we begin, also there is a switch on the
11 right, zero, one, two. If you can just ensure that that
12 switch is at two for all of your headsets.

13 A JUROR: Can I get a tissue?

14 MR. NORRIS: Of course. A tissue, Judge? For the
15 juror?

16 THE COURT: Yes.

17 A JUROR: Thank you.

18 MR. NORRIS: If anyone has any problems hearing,
19 raise your hand and we will get you a new headset.

20 (Tape plays.)

21 (Tape stops.)

22 MR. NORRIS: One more time, please.

23 Q To make sure everyone is oriented, Mr. Russo, the
24 conversation begins on page 31 of the transcript. Is that
25 correct?

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1 A Yes.

2 Q It starts right at the bottom and quickly goes into page
3 32?

4 A Yes.

5 MR. NORRIS: Ready?

6 (Tape plays.)

7 (Tape stops.)

8 Q Mr. Russo, do you ever experiment with the pitch or speed
9 of the tape?

10 A Very rarely. That was not my practice.

11 Q Are you familiar with what happens if you slow the speed
12 just a little bit? If you slow it down?

13 A Yes.

14 Q Does it change what is said in any way?

15 A No.

16 Q Just makes it a little bit easier to hear?

17 A Yes.

18 MR. NORRIS: For the third time, just turn the pitch
19 down just a fraction, an increment, and start one more time
20 from the top.

21 (Tape plays.)

22 (Tape stops.)

23 MR. NORRIS: I will hand out the second set for the
24 January 24th recording.

25 THE COURT: Thank you.

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1 Q Before we begin, Mr. Russo, this conversation that the
2 jury is about to hear, who were the participants?

3 A In this portion of the conversation, the individuals
4 speaking are Sammy Gravano and John Gotti.

5 Q The conversation begins about two-thirds of the way down
6 on page 42, is that right?

7 A That is correct.

8 Q This is the recording from January 24, 1990, correct?

9 A Yes.

10 Q Before you testified that the letters IA signified
11 inaudible, is that correct?

12 A Yes.

13 Q That appears at the bottom of this first page of the
14 transcript, correct?

15 A Yes.

16 Q Is there also are several notations for throat clearing,
17 tapping sounds, coughs, et cetera. Are those audible on -- in
18 the recordings the jury is about to hear?

19 A Yes, they are.

20 (Tape plays.)

21 (Tape stops.)

22 (Tape plays.)

23 (Tape stops.)

24 MR. NORRIS: One more time here again at a slightly
25 slower speed.

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1 (Tape plays.)

2 (Tape stops.)

3 MR. NORRIS: No further questions.

4 MS. SHARKEY: No cross.

5 THE COURT: Thank you, sir.

6 THE WITNESS: Thank you, Your Honor.

7 (Witness steps down.)

8 MR. BURLINGAME: The government calls John Alite.

9 THE COURT: Swear him, please.

10 THE CLERK: Yes, Your Honor.

11 Please stand and raise your right hand.

12 Do you understand your obligation to tell the truth,
13 the whole truth, and nothing but the truth, under penalty of
14 perjury?

15 THE WITNESS: Yes.

16 THE CLERK: You may be seated.

17 Please state and spell your name for the reporter.

18 THE WITNESS: John Alite, J O H N, A L I T E.

19 MR. BURLINGAME: May I inquire, Judge?

20 THE COURT: Please.

21 DIRECT EXAMINATION

22 BY MR. BURLINGAME:

23 Q I will remind you to speak slowly, clearly, into the
24 microphone, please.

25 At any point in your life have you had an

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1 affiliation with organized crime?

2 A Yes.

3 Q What family?

4 A Gambino Family.

5 Q What was your position in the Gambino Family?

6 A An associate of the Gambino Family.

7 Q Looking around the courtroom, do you see anyone else
8 affiliated with the Gambino Family?

9 A Yes.

10 Q Who?

11 A Charles Carneglia.

12 Q Can you please identify him by something he is wearing?

13 A Green shirt.

14 MR. BURLINGAME: Identifying the defendant?

15 THE COURT: Yes.

16 Q What was the defendant's position in the Gambino Family?

17 A Made member of the Gambino Family.

18 Q During the time you were a Gambino Family associate, who
19 were you on record with?

20 A John Gotti, Junior and the regime.

21 Q What does that mean, the regime?

22 A The hierarchy of the Gambino Family, Gotti faction.

23 Q Approximately what years were you an associate under John
24 Gotti, Junior and the Gotti regime?

25 A 1983 until the time I started cooperating.

Alite-direct-Burlingame

3274

1 Q Which was when?

2 A 2007, approximately March, April.

3 Q Almost twenty-five years?

4 A Yes, that's correct.

5 Q During that period, what positions in the Gambino Family
6 did John Gotti, Junior hold?

7 A He was an associate, made member, captain and acting
8 boss.

9 Q Were you close with John Gotti, Junior during that time?

10 A Yes; best friends.

11 Q Did there come a time when you had a falling out with
12 him?

13 A Yes.

14 Q When was that?

15 A Approximately '93. 1993.

16 Q Did you continue to be on record with him despite the
17 falling out?

18 A Yes.

19 Q Did another member of the Gambino Family become your
20 day-to-day point of contact after your dispute with John
21 Gotti, Junior?

22 A Yes.

23 Q Who was that?

24 A Charles Carneglia.

25 Q The defendant?

Alite-direct-Burlingame

3275

1 A Yes.

2 Q How long was the defendant your primary point of contact
3 with the Gambino Family?

4 A Approximately ten years.

5 Q During that period, how frequently would you see him?

6 A About five times a week.

7 Q What was the defendant's role in the Gambino Family?

8 A He was an enforcer, killer.

9 Q During the period you were with the defendant, did you
10 become close with him?

11 A Yes.

12 Q Did you commit crimes with him?

13 A Yes.

14 Q Were you involved in a murder with him?

15 A Yes.

16 Q Who was murdered?

17 A Louis DiBono, made member of our family.

18 Q Did you plead guilty to that crime?

19 A Yes.

20 Q In addition to that murder, are you aware of the
21 defendant committing other murders?

22 A Yes.

23 Q How are you aware of those murders?

24 A Conversations with him and conversations with John Gotti,
25 Junior.

Alite-direct-Burlingame

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1 Q Who else did he tell you he killed?

2 A Sal Puma, an armored car guard, and a court officer.

3 Q In addition to these murders, are you aware of the
4 defendant committing other crimes?

5 A Yes.

6 Q Was the defendant involved in any armed robberies you
7 took part in?

8 A Yes.

9 Q Which ones?

10 A Sears in Vineland, New Jersey, and Papavera Funeral Home,
11 Maspeth, Queens.

12 Q Are you aware of the defendant kidnapping anyone?

13 A Yes.

14 Q Who?

15 MS. SHARKEY: Objection. Foundation.

16 THE COURT: Lay a foundation, please.

17 Q Did the defendant ever talk to you about kidnapping
18 anyone?

19 A Yes.

20 Q Who?

21 A David D'Arpino.

22 Q What happened to D'Arpino after the defendant kidnapped
23 him?

24 A He tied him up, brought him to a yard in Brooklyn and
25 threatened to kill him and poured acid on him.

Alite-direct-Burlingame

3277

1 Q Are you aware of the defendant disposing of bodies?

2 A Yes, I am.

3 Q How do you know about it?

4 A He discussed it with me.

5 Q How old are you?

6 A Forty-six.

7 Q Where do you live?

8 A Prison.

9 Q Where were you born?

10 A Jamaica, Queens, New York.

11 Q When?

12 A September 30, 1962.

13 Q Where did you grow up?

14 A Woodhaven, Queens.

15 Q What did your dad do for a living?

16 A He was a cab driver.

17 Q What about your mom?

18 A She was a secretary.

19 Q Did you have a lot of money growing up?

20 A No; the opposite.

21 Q Did your family have any ties to organized crime?

22 A Yes.

23 Q What?

24 A Excuse me?

25 Q What ties?

Alite-direct-Burlingame

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1 A My uncle worked for Charlie Luciano, who was a made
2 member of the Gambino Family. He had a card game with him.

3 Q How old were you when you first became aware of organized
4 crime?

5 A I was approximately seven years old.

6 Q How did you become aware of it at such a young age?

7 A I would go to those card games with my father and go see
8 my uncle and see Charlie Luciano and other wiseguys.

9 Q Were you exposed to gangsters at those card games?

10 A Yes.

11 Q What did you think of them?

12 A I was impressed. They all had money, dressed nice.

13 Treated me real good, gave me money.

14 Q What did you think of being a gangster?

15 A I looked at upon somebody in -- that goes to the Army,
16 the armed forces. You look at it as if something to look upon
17 as a good thing, something with respect and honor. And I
18 wanted to do the same. I wanted to join those forces.

19 Q Even as a young kid?

20 A Yes, even as a kid.

21 Q Did you start getting involved in criminal activity at
22 some point in your childhood?

23 A Yes.

24 Q How old were you?

25 A Fifteen about, fourteen, fifteen.

Alite-direct-Burlingame

3279

1 Q What happened?

2 A I worked at a local delicatessen and there was a
3 bookmaker that worked across the street from the Lucchese
4 Family, a made guy. He had his runners use our pay phones,
5 take bets, for sports and horses and stuff like that. Once in
6 a while they asked me to run envelopes back and forth or
7 collect money some place for them as a favor. Nothing big.

8 Q What does that mean for you to be running envelopes
9 around for him?

10 A Somebody would leave an envelope at the deli that they
11 owed money. I'd take it, run it across the street to the
12 bookmaker Louis.

13 Q What was the name of the made member of the Lucchese
14 Family you were working with?

15 A George Gatti, made member of the Lucchese Family.

16 Q How long did you assist George Gatti?

17 A A couple of years, two, three years.

18 Q At the time you were working with Gatti, did you have
19 another after school job?

20 A Excuse me?

21 Q Did you have any other jobs at that time?

22 A Just the delicatessen. I was a sandwich man. I worked
23 at the sandwich counter.

24 Q While you worked at the sandwich counter, did you ever
25 have a dispute with any customer?

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3280

1 A Yes.

2 Q Who?

3 A A guy named Patty Antique.

4 Q Who was Patty Antique?

5 A He was like a local street guy, tough guy, not affiliated
6 with a Crime Family but a gangster in his own way.

7 Q Why did they call him Patty Antique?

8 A He had an antique store and he would deal in stolen goods
9 and stuff and that was just his front for it.

10 Q How did the dispute start with Patty Antique?

11 A He came in the store. He was getting an ice cream or
12 something like that out of the freezer. I don't know what
13 exactly he was getting. Some customers were in. I was making
14 sandwiches for them. They were telling a joke. He thought I
15 was laughing at him.

16 Q What happened?

17 A He threatened to shoot me.

18 Q After -- that was in the initial confrontation in the
19 store?

20 A Yes.

21 He said he was going to get me in the initial
22 conversation. He didn't have a gun. He just threatened he
23 was going to kill me.

24 Q Did you see him again?

25 A Yes.

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1 Q When did you next see him?

2 A I was around the corner. There was a little private gym
3 there, a couple of us had, we'd worked out there. There was a
4 weight room there and a couple of the members from Dick's Deli
5 had the gym there. Seen him there. Seen him work out. He
6 pulled over with his truck and chased me. He tried to shoot
7 me.

8 Q He had a gun?

9 A Yes.

10 Q What did you do?

11 A I ran.

12 Q Did he try to shoot you on any other occasions?

13 A Yes.

14 He came to my house with a machine gun. My
15 grandmother was home sitting on the porch with my sister.
16 They called the police. I got mad at my sister and
17 grandmother for calling the police.

18 Q This is all because this guy thought you were laughing at
19 him in the deli?

20 A Yes.

21 Q What if anything did you do to protect yourself?

22 A I went to Albert Ruggiano.

23 Q Who is Albert Ruggiano?

24 A First I went to a guy named Mousy. This other guy was a
25 local -- he worked for the bookmaker. He was a collector. I

Alite-direct-Burlingame

3282

1 asked him to help me out.

2 Q Did he help you out?

3 A He tried but he wasn't successful, no.

4 Q What did you do next?

5 A Then I went to Albert Ruggiano.

6 Q Who was he?

7 A He was an associate of the Gambino Family. His father
8 was a captain with the Gambino Family.

9 Q Do you know what his father's name was?

10 A Yes; fat Andy Ruggiano.

11 Q Did Albert Ruggiano have a brother?

12 A Yes, Anthony Ruggiano. He's a made member also of the
13 Gambino Family.

14 Q Showing you what's in evidence as Government
15 Exhibit 2-KKK.

16 Do you recognize that person?

17 A Can I see that?

18 Yes. That's Albert Ruggiano.

19 Q You testified he was an associate of the Gambino Family?

20 A Yes.

21 Q Are you aware of him achieving any higher position in the
22 Gambino Family?

23 A Albert, no.

24 Q Showing you Government Exhibit 2-W.

25 A That's his brother Anthony Ruggiano.

Alite-direct-Burlingame

3283

1 Q What's the highest position you are aware he obtained in
2 the Gambino Family?

3 A Made member.

4 Q I am showing you Government Exhibit 2 triple L.

5 A That's his father, Fat Andy. He was a skipper, captain.

6 Q How do you know Albert Ruggiano?

7 A He was my baseball coach and we used to box at the same
8 gym in -- on Queens Boulevard called the Lost Battalion Hall.

9 Q When did you choose to go see him about your problem with
10 Patty Antique?

11 A Because his father was a captain in the Gambino Family.
12 He was known as a gangster. I knew he could take care of it.

13 Q Did Albert Ruggiano take care of the problem?

14 A The first time he sent somebody there to go talk to the
15 guy, just to warn him off. That didn't work. But the second
16 time he went -- he went back to him a second time with a
17 little more force and warned him again.

18 Q What was the little more force?

19 A Told him he'd hurt him.

20 Q What happened?

21 A He didn't listen. So he went back a third time with a
22 couple of guys. He told me to be in a location so I had an
23 alibi where I was at. I went to a local bar. They couldn't
24 find him, but they found his stepson.

25 Q What did they do to the stepson?

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3284

1 A They took him, brought him to a building and threw him
2 off the building.

3 Q What happened to him?

4 A He broke his neck, his arm, fractured his head, some
5 other injuries. I don't know. Hurt him pretty bad.

6 Q Did you ever have a problem with Patty Antique?

7 A No.

8 Patty Antique left the neighborhood after that.

9 Q How long did that problem that you were having with Patty
10 Antique go on until it ended?

11 A A year or so.

12 Q During the course of that year, did you meet John Gotti,
13 Junior?

14 A Yes.

15 Q How did that happen?

16 A I met John Gotti, Junior through Johnny Gebert initially,
17 an associate of the Gambino Family. I met him on Jamaica
18 Avenue on a -- brief, couple of seconds. After that I went to
19 the Finish Line Bar and I ran into Anthony -- Albert Ruggiano
20 there. I was supposed to meet him there. I ran into John
21 Gotti, Junior again.

22 Q What happened at the Finish Line that day?

23 A Asked me what I was doing there. Sent one of his friends
24 over to me. Asked me what I was doing there. I told him I
25 had to meet Albert Ruggiano for something. And I reminded him

Alite-direct-Burlingame

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1 that he met me already with Johnny Gebert.

2 Q When you first met John Gotti, Junior, did you know if he
3 had any ties to organized crime?

4 A Yes.

5 Q What -- how did you know that?

6 A Johnny Gebert told me his father was a made member of the
7 Gambino Family.

8 Q Did he tell you what his father's position was at the
9 time?

10 A Just a made member at that time.

11 Q Who was Johnny Gebert?

12 A Johnny Gebert was one of my best friends in those days,
13 an associate of John Gotti, Junior's.

14 Q Showing you Government Exhibit 2-P. Who is that?

15 A John Gotti, Senior, the boss.

16 Q What's the highest position you are aware of that he
17 obtained in the Gambino Family?

18 A The boss of the family.

19 Q Showing you Government Exhibit 2-O. Who is that?

20 A John Gotti, Junior.

21 He's an acting boss, when his father went to prison.

22 Q After you saw Gotti, Junior at the Finish Line, did you
23 see him again?

24 A Yes.

25 Q Where did you see him?

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1 A Seen him on Jamaica Avenue. He started coming up
2 frequently, up to the neighborhood where we lived, Woodhaven,
3 which, you know -- I'd seen him pretty frequently up there.

4 Q Did you start to see him regularly?

5 A Yes.

6 Q Did you become friends?

7 A Yes.

8 Q How old were you at the time?

9 A Initially when I first met him, around seventeen. Yes,
10 seventeen, approximately.

11 Q At that time when you were seventeen when you first
12 started to become friends with John Gotti, Junior, were you
13 involved in any criminal activity aside from helping George
14 Gatti with the sports book?

15 A No, not really. No.

16 Q Shortly after you became friends with John Gotti, Junior
17 did you start in on any other criminal activity?

18 A I started moving small amounts of cocaine.

19 Q In a sentence or two, how did you first get involved in
20 dealing cocaine?

21 A A guy that was dating my sister had a problem. When he
22 was moving cocaine in the neighborhood, Albert Ruggiano went
23 to shake him down.

24 Q What does that mean, that Albert Ruggiano went to shake
25 him down?

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1 A He told him he couldn't sell no drugs without paying our
2 crew.

3 Q So what happened?

4 A They came to me and they asked me to speak to Albert.
5 They knew I was friends with him.

6 Q "They," being the drug dealers?

7 A Yes.

8 Q The --

9 A I spoke to Albert. Albert said as long as I'm getting an
10 end, he doesn't want an end.

11 Q What does that mean, you getting "an end"?

12 A They start giving me a couple of hundred a week.

13 Q Did they?

14 A Yes.

15 Q Why would these drug dealers pay you?

16 A Because now I'm starting to get affiliated with the
17 Gambino Family and they knew they would be protected under my
18 wing now, as long as I was friends with the rest of the
19 Gambino Family.

20 Q Did you graduate from high school?

21 A Yes.

22 Q What did you do after graduation?

23 A Played baseball and went to college.

24 Q Where did you go to college?

25 A University of Tampa.

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- 1 Q How long did you stay there?
- 2 A One semester.
- 3 Q Why did you leave?
- 4 A I had an arm injury, came back for an operation.
- 5 Q What did you do when you got back to New York?
- 6 A I had the arm operation, went to Queens College.
- 7 Q Did you start dealing drugs again when you first came
8 back to New York?
- 9 A Yes.
- 10 Q Large quantities?
- 11 A No; small amounts again.
- 12 Q How long did you stay at Queens College?
- 13 A Just a semester also.
- 14 Q Why did you leave?
- 15 A My father started seeing me hang around once in a while
16 with Johnny Gebert and John Junior Gotti and I came home late
17 one night and he went underneath my drawer and he found drugs
18 and pistols.
- 19 Q What did he do?
- 20 A Gave me a beating, sent me to California.
- 21 Q What was in California?
- 22 A I had an uncle. Actually a cousin, but I called him
23 uncle. I lived with him and his wife.
- 24 Q How long did you live with your uncle and his wife?
- 25 A Approximately one year.

Alite-direct-Burlingame

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1 Q Were you arrested while you were in California?

2 A Yes.

3 Q What for?

4 A Assault.

5 Q Were you charged with anything besides assault?

6 A Yes; some sort of theft, robbery.

7 Q How -- what did the theft stem from?

8 A While I was fighting this guy, he was a big guy, he was
9 actually kicking my ass. I took a ring off his finger without
10 him knowing I took it off.

11 Q You were charged with taking the ring?

12 A Yes.

13 Q You said you were in California for about a year. Where
14 did you go when you left California?

15 A I came back to New York.

16 Q When you got back from California, did you get back into
17 the coke business?

18 A Yes.

19 Q At first, were you dealing big time or small time?

20 A No, small time still.

21 Q Did there come a point when you started dealing greater
22 amounts?

23 A Yes.

24 Q How did that happen?

25 A I met with Kevin Bonner and he explained to me that

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1 Georgie Grasso and him were moving cocaine and they were
2 paying John Gotti, Junior one hundred fifty a week at that
3 time.

4 Q Who was Kevin Bonner?

5 A He's an associate of the Gambino Family.

6 Q Showing you Government Exhibit 2 triple Y.

7 Who is that?

8 A Kevin Bonner.

9 Q What's the highest position he attained in the Gambino
10 Family?

11 A Associate.

12 Q You said that you came back and Kevin Bonner told you
13 that he -- and was it Georgie Grasso?

14 A Yes.

15 Q Were buying cocaine from a supplier that had been
16 introduced to him by John Gotti, Junior, correct?

17 A Excuse me? Say that again.

18 Q They were buying cocaine from a source that had been
19 given to them by John Gotti, Junior?

20 A No. Not at that time, no.

21 Q Sorry.

22 What happened when you got back?

23 A When I got back, I started dealing coke again. Kevin
24 Bonner told me I am going to have to give an envelope to John
25 Gotti, Junior like everybody else. At that time he was

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1 shaking down some local drug dealers. I started paying John
2 Gotti, Junior a small amount of money like everybody else and
3 he decided to put me and Kevin Bonner together with a friend
4 of his whose cousin knew Tony Kelly, his cousin Johnny Boy
5 Ruggiero, also a made member of the Gambino Family, introduced
6 us to this guy and said we are going to buy coke from him from
7 now on.

8 Q What was the name of that source?

9 A Tony Kelly.

10 Q How much coke were you dealing once you started buying
11 from Tony Kelly?

12 A One key. That's it. At the beginning, which is a kilo.

13 Q How frequently would you deal a key?

14 A In those days, like once a month.

15 Q What does a key mean? What's a key?

16 A A pound of coke, cocaine.

17 Q Key stands for?

18 A Kilo.

19 Q Kilo.

20 When was this when you started dealing in kilo every
21 month or so?

22 A Approximately '84.

23 Q Did you have to give John Gotti, Junior a cut of your
24 profits.

25 A We decided on a -- well, it was a decision. It wasn't a

Alite-direct-Burlingame

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1 democracy. Decision by him was we get a third, a third and a
2 third. I get a third, Kevin Bonner gets a third, John Gotti
3 gets a third.

4 Q Did there come a point in time when John Gotti, Junior
5 asked you to help him with other criminal activity?

6 A Yes.

7 Q What did he ask you to do?

8 A He was partners with Johnny Gebert in a marijuana
9 business up in Forest Park. Johnny Gebert got robbed by some
10 Jamaicans and beat up. He asked me to go with John Gebert and
11 drive the car while we did the shooting.

12 Q Did you do what he asked?

13 A Yes.

14 Q Who did you do it with?

15 A I did -- John Gebert was the shooter. I was the driver.
16 John Gotti, Junior and this guy Jerry were the crash cars
17 behind us.

18 Q What's that mean, a crash car?

19 A We do the shooting. If there is any interference with a
20 public hero or a local law enforcement, they will ram that car
21 or block it so we can get away.

22 Q Did the shooting take place?

23 A Yes.

24 Q How did it take place?

25 A We found a spot, approximately 118th Street, I believe,

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1 in Jamaica Avenue, where they hang out. We pulled up. We
2 rolled up. Johnny Gebert rolled down his window. It was an
3 automatic window. He rolled it down. I slowed down to about
4 two miles an hour and he unloaded the pistol.

5 Q Was anyone shot?

6 A I believe two guys.

7 Q Was anyone killed?

8 A I am not sure.

9 Q Did this change your relationship with John Gotti,
10 Junior?

11 A Yes.

12 Q How so?

13 A He didn't look at me as -- as just some college kid now.
14 Now he seen that I was capable. I did a good job. I didn't
15 panic. And I was able to commit a hit if he needed it or he
16 could start using me for strong arming things.

17 Q When did that shooting of the Jamaicans take place?

18 A About '84.

19 Q After the shooting, how often did you start seeing John
20 Gotti, Junior?

21 A Every day.

22 Q How much time would you spend with him each day?

23 A Day and night.

24 Q Did you sleep at his house?

25 A Yes.

Alite-direct-Burlingame

3294

- 1 Q How often?
- 2 A A couple of days a week.
- 3 Q Is it fair to say you were rarely apart?
- 4 A Yes, that's fair to say.
- 5 Q How long of a period of time were you and John Gotti,
- 6 Junior this close?
- 7 A Until close to '94. '93.
- 8 Q So ten years daily contact most of the day?
- 9 A Yes.
- 10 Q Were you married during that ten years?
- 11 A Yes.
- 12 Q Who was your best man?
- 13 A John Gotti, Junior.
- 14 Q Did he sign your marriage license?
- 15 A Yes.
- 16 Q Who else signed it?
- 17 A Johnny Boy Ruggiero.
- 18 Q Who was Johnny Boy Ruggiero?
- 19 A He was the maid of honor. He was the maid of honor.
- 20 Q At the wedding?
- 21 A At the wedding.
- 22 Q Who was he more generally?
- 23 A Also a made member of the Gambino Family.
- 24 Q Showing you Government Exhibit 2-X.
- 25 Who is that?

Alite-direct-Burlingame

3295

1 A Johnny Boy Ruggiero.

2 Q What's the highest position you are aware he attained in
3 the Gambino Family?

4 A Made member.

5 Q I am showing you Government Exhibit 60. Take a look at
6 that and tell me if you recognize it.

7 A Yes. It's my marriage license.

8 MR. BURLINGAME: Move to admit Government
9 Exhibit 60.

10 THE COURT: Admitted.

11 (So marked.)

12 Q On the second page of Government Exhibit 60 it lists the
13 witnesses, about two-thirds down the page.

14 Can you just read who the two witnesses are?

15 A John Gotti and John Ruggiero.

16 MR. BURLINGAME: Permission to publish to the jury,
17 Judge.

18 THE COURT: Yes.

19 (Exhibit to jurors.)

20 Q What day did you get married?

21 A February 14, 1989.

22 Q Why did you pick February 14th?

23 A John Junior asked me to pick that day, as a thing of
24 respect for him.

25 Q Why?

Alite-direct-Burlingame

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1 A That's his birthday.

2 Q Gotti Junior have brothers and sisters?

3 A Yes.

4 Q What were their names?

5 A Frankie, his younger brother that passed away, Victoria,
6 his sister, and Angel, his other sister.

7 Q Did he have another brother? Besides Frankie?

8 A Peter. I'm sorry. Peter.

9 Q You said Frankie passed away. How did he die?

10 A In a minibike accident. He got ran over.

11 Q Whose minibike was it?

12 A Kevin McMahon's.

13 Q What happened to the person who ran over Frankie Gotti?

14 A He was killed.

15 Q Do you know if his body was ever found?

16 A No.

17 Q Do you know what happened to it?

18 A It was dismembered, from what I was told.

19 Q Showing you Government Exhibit 62. It contains five
20 photographs.

21 Do you recognize these photographs?

22 A Yes.

23 Q What are these photographs?

24 A Where do you want me to start?

25 Q Just generally, are these photographs that you provided

Alite-direct-Burlingame

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1 to the government?

2 A Yes.

3 Q Are these photographs depicting you with members and
4 associates of the Gambino Family?

5 A Yes.

6 MR. BURLINGAME: Move to admit Government
7 Exhibit 62.

8 THE COURT: Admitted.

9 (Marked.)

10 MR. BURLINGAME: Permission for the witness to step
11 down and explain who is who in the photo.

12 THE COURT: Yes.

13 (Witness steps down.)

14 Q Okay. Starting with the top left hand photo. Who is the
15 gentleman here on the left?

16 A Anthony Amoroso. He's an associate.

17 Q This is Anthony Amoroso?

18 A Yes.

19 Q Does he have any affiliation with the Gambino Family?

20 A An associate of John Junior.

21 Q Who is that in the middle with the black T-shirt that
22 says Beach Club Aruba?

23 A That's John Gotti, Junior.

24 (Continued on next page.)

25

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1 eXAMINATION CONTINUES

2 BY MR. BURLIGAME:

3 Q Who is that on the right with the white sweatshirt on.

4 A That's myself.

5 Q Do you remember where this photograph was taken?

6 A Next door to the club, Bergin Hunt and Fish Club, 98th
7 Street and 101st Avenue.

8 Q Do you know approximately how old you are in the photo?

9 A Say early twenties.

10 Q Who is that in the background?

11 A Frankie Radice.

12 Q Does he have any affiliation with the Gambino family?

13 A He's a made member also.

14 Q Moving onto the next photograph. Do you know where this
15 photograph was taken?

16 A Yeah, that's Rockaway Beach.

17 Q Is this is the top --

18 THE COURT: Could you step back so the jurors can
19 see.

20 THE WITNESS: I'm sorry.

21 Q Moving over to the top right-hand photograph. Where did
22 you say this was?

23 A Rockaway Beach, Queens.

24 Q Do you know how old you are in the this photograph?

25 A About 19. That's when I got stabbed.

Alite - direct/Burlingame

3299

1 Q And going left to right. Who is this on the left-hand
2 side?

3 A That's Bubba.

4 Q Do you know Bubba's last name?

5 A No. An associate of John's.

6 Q Who is next to Bubba with the white pants and no shirt?

7 A John Junior.

8 Q Who is next to Gotti Junior in the black T-shirt?

9 A That's myself.

10 Q Who is that on the right-hand side in the white shirts?

11 A That's Johnny Gebert.

12 Q The person who first introduced you to John Gotti Junior?

13 A That's correct.

14 Q What was his affiliation with the Gambino family?

15 A An associate, partners in the drug business, marijuana
16 business, with John Gotti Junior.

17 Q Moving to the bottom left hand photo. Do you know where
18 this photograph was taken?

19 A Yeah. Florida.

20 Q When?

21 A About a year or two after this photo. So I was about 21,
22 22-years-old.

23 Q What year was it when you were 21, 22?

24 A About 85', '86, I guess.

25 Q And who is depicted in the photo, starting from the left?

3300

1 A Myself.

2 Q Who is in the center?

3 A John Gotti Junior.

4 Q And who is next to Gotti Junior?

5 A Joel King.

6 Q Did Joel King have any affiliation with organized crime?

7 A Yes.

8 Q What?

9 A He was an associate of mine originally. Dealt drugs with
10 me. Later on he was an associate around Ronnie One Arm
11 Truccio.

12 Q Who was Ronnie One Arm Truccio?

13 A Captain in the Gambino family. John put him with Ronnie.

14 Q Moving to the center photo on the bottom. Do you know
15 when this photograph was taken?

16 A Yeah. 1991, my son's birthday party.

17 Q Do you know where it was taken?

18 A Yeah, my house in Cherry Hill, New Jersey.

19 Q Who is this on the left-hand side?

20 A John Gotti Junior.

21 Q Do you know who this is leaning over next to John Gotti
22 Junior?

23 A Frankie Radice.

24 Q Who is next to Frankie Radice?

25 A That's myself.

3301

1 Q You're holding your baby, you said boy?

2 A Yes.

3 Q Do you know how old he was on this birthday?

4 A He's one-year-old.

5 Q And the final photograph on the right. Can you identify

6 these people in the background, starting on the left?

7 A Yeah, John's wife Kim.

8 Q When you say John --

9 A John Gotti Junior. I'm sorry.

10 Q What's her maiden name?

11 A Albanese.

12 Q Kimmy Albanese?

13 A Yes.

14 Q Who is next to her, holding this child?

15 A That's her father, Joe Albanese.

16 Q So he would be Gotti's father-in-law?

17 A Yes.

18 Q Do you know who the man in the pink shirt is?

19 A No.

20 Q Who is this in the foreground?

21 A That's John Gotti Junior holding my son.

22 Q How old is your son in this picture?

23 A I believe two years old in this picture.

24 Q Do you know where this photograph was taken?

25 A Yeah. In front of John's house in Syosset, Long Island.

3302

1 Q Resume the witness stand. Do you know when John Gotti
2 Junior became a made member of the Gambino family?

3 A Yeah. Around Christmas of '88.

4 Q How do you know he became a made member?

5 A Cause he told me.

6 Q Did he tell you that anyone else was made with him?

7 A Yes. Mikey Scars DiLeonardo.

8 Q When he was made, what was his father's position in the
9 Gambino family?

10 A Boss.

11 Q During the ten years you were best friends with John
12 Gotti Junior, you remained an associate in the Gambino family;
13 is that correct?

14 A That's correct.

15 Q You testified that you were on record with both John
16 Gotti Junior and with the regime, correct?

17 A That's correct.

18 Q What does that mean to be on record?

19 A That means if I have a problem with another crew or
20 anything they know I'm with, I'm the property of the Gambinos;
21 specifically, John Gotti Junior, his father, and the regime.

22 Q Who told you that you were on record with the regime?

23 A John Gotti Senior, John Gotti Junior.

24 Q You testified you understood the regime to be the ruling
25 faction of the Gotti family?

3303

1 A Correct.

2 Q Who are the Gottis that made up the regime?

3 A John Gotti Senior, John Gotti Junior, Genie Gotti, Pete
4 Gotti, Richie Gotti.

5 Q Showing you Government Exhibit 2 Q. Who is that?

6 A Pete Gotti.

7 Q What is the highest position you're aware of that he
8 attained in the Gambino family?

9 A Acting boss.

10 Q Showing you Government Exhibit 2 XX/1. Do you recognize
11 that person?

12 A Genie Gotti.

13 Q What is the highest position he attained in the Gambino
14 family?

15 A Captain.

16 Q Showing you Government Exhibit 2 YY. Who is that?

17 A Richie Gotti, the nephew.

18 Q What is the highest position he attained in the Gambino
19 family?

20 A Made member.

21 THE COURT: If you're moving to a new topic, we can
22 break.

23 MR. BURLINGAME: This would be a good time, Judge.

24 THE COURT: Be back, please, at 2 o'clock.

25 (Jury leaves.) (Luncheon recess.)

3304

1 A F T E R N O O N S E S S I O N

2 THE COURT: Bring in the jury, please.

3 (Jury present.)

4 JOHN ALITE,

5 called as a witness, having been previously duly
6 sworn, was examined and testified as follows:

7 THE COURT: Be seated, please.

8 MR. BURLINGAME: May I continue?

9 THE COURT: Yes.

10 BY MR. BURLINGAME:

11 Q You testified before the break that from 1984 to 1993 you
12 were inseparable best friends with John Gotti Junior and you
13 were on record with him and with the Gotti regime.

14 What was your primary source of income during that
15 time?

16 A Drug dealing.

17 Q Specifically what kind of drugs?

18 A Cocaine.

19 Q Did you expand your cocaine business from the time you
20 were dealing one kilo a month?

21 A Yes.

22 Q Did you take over certain neighborhoods so that you were
23 the sole supplier of cocaine in those neighborhoods?

24 A Yes.

25 Q Were you successful in doing that?

3305

1 A Yeah, I would say so, yes.

2 Q Did you operate primarily in any one borough of the city?

3 A Mostly Queens.

4 Q In what parts of Queens were you able to establish
5 yourself as the sole supplier of cocaine?

6 A Woodhaven, Ozone Park, South Ozone Park, Howard Beach,
7 Richmond Hill; parts of East New York, Brooklyn, parts of
8 Ridgewood, Brooklyn. Kew Gardens, Glendale, parts of College
9 Point; some of Valley Stream, Long Island.

10 Q Middle Village?

11 A Middle Village, yes.

12 Q Jamaica?

13 A Yes.

14 Q Forest Hills?

15 A Yes.

16 Q Bayside?

17 A Yes.

18 Q So in all those places your organization was the sole
19 supplier of cocaine?

20 A Yeah. If I found out somebody else was moving cocaine,
21 then I would step in.

22 Q This is from during what period of time?

23 A From '84 -- I'd say it started growing till about '93.

24 Q Fair to say during that period you were one of the
25 biggest drug dealers in New York City?

3306

1 A Yes.

2 Q Would you allow any amount of cocaine to be sold in the
3 areas you controlled without your permission?

4 A Small amounts. If someone was nickel-diming, yeah, I
5 wouldn't bother them.

6 Q What would be a significant amount?

7 A If they were making more than 500, 700 a week I'd step
8 in.

9 Q If you found out that someone was selling significant
10 amounts of cocaine in an area that you controlled, what did
11 you do?

12 A I would send one of my guys over to talk to them and
13 get -- try to get them to do business with us.

14 Q What would happen if they wouldn't do business with you?

15 A Then I'd step it from there, either hurt them or shoot
16 them.

17 Q Fair to say you brought all these different neighborhoods
18 under your control through violence?

19 A Yes.

20 Q What kinds of violence?

21 A By controlling these neighborhoods --

22 Q Yes.

23 A Shootin' people, stabbing people, baseball batting
24 people, piping them, blackjacking them.

25 Q What is piping somebody?

3307

1 A Just what it -- it's a pipe that you use for plumbing,
2 but we use it to crack somebody's head with.

3 Q What is baseball batting somebody?

4 A Same thing, to put them in a hospital, crack their head
5 with a baseball bat.

6 Q You said blackjacking somebody. What does that mean?

7 A Same thing, grab them, hold them down, blackjack them.
8 It's like lead inside a rubber leather, tough leather.

9 Q Approximately how many acts of violence would you say
10 personally participated in?

11 A Over a hundred.

12 Q Did you have men working for you in the drug trade?

13 A Yes.

14 Q Approximately how many?

15 A About 150, I'd say.

16 Q Did they commit violence on your command?

17 A Yeah, when I told them to, yeah.

18 Q How many acts of violence would you say the men working
19 for you committed?

20 A Everything they did? Baseball battings, everything? A
21 couple of hundred.

22 Q How much money were you personally making from your
23 cocaine business each month?

24 A Me personally, I put a hundred thousand a month in my
25 pocket.

3308

1 Q How much money a month were your top lieutenants making?

2 A On average, 30,000, maybe 40,000 a month.

3 Q How many guys were making that much money?

4 A Maybe about 20, 25 guys.

5 Q You said you had about 150 people working for you. What
6 were the other workers making?

7 A 10,000, 12, some of them 15 and guys under them probably
8 around 5,000.

9 Q Fair to say your cocaine business was generating well
10 over a million dollars a month in profit?

11 A Yeah, I'd say so, yeah.

12 Q Out of the money you personally made did you have to
13 split the profits with anybody?

14 A Yes.

15 Q Who?

16 A My boss, John Gotti Junior.

17 Q Do you know if he had to split any of the money you gave
18 to him?

19 A Yeah.

20 Q Who did he give it to?

21 A His father, when he was the boss at the time.

22 Q Gotti Senior?

23 A Yes.

24 Q Why did you give your money to the Gambino family?

25 A That was the way that I expanded my business through my

3309

1 friends -- who I thought were my friends and my bosses.

2 Q Did you have a choice, could you have chosen not to give
3 them the money?

4 A Yeah, I had a choice.

5 Q What would have happened if you decided not to give them
6 money?

7 A I would have been the guy getting shot or baseball
8 batted.

9 Q Did the Gambino family provide any advantage to your drug
10 business?

11 A Yes. Of course.

12 Q What did it do for you?

13 A When I needed guys, I had guys. When I needed somebody
14 to go do something, I had people to do something. If I had a
15 problem with another crew, another family, I had my umbrella.

16 Q You had your what?

17 A Umbrella.

18 Q What does that mean?

19 A My flag. I had people behind me.

20 Q Could you have built the drug business you did without
21 the Gambino family's backing?

22 A No, not that that extent, nowhere near.

23 Q Are you aware of any Gambino family prohibition on drug
24 dealing?

25 A Yes.

3310

1 Q Did any member of the Gambino family tell you to be
2 careful about your drug dealing?

3 A Yes.

4 Q Who?

5 A Joseph Corozzo, Pete Gotti, Bobby Borriello, John Gotti
6 Junior, and I was warned off of drugs by John Gotti Senior.

7 Q What is the difference between the conversation you had
8 with John Gotti Senior and the other guys you just mentioned?

9 A The other guys are telling me if I get caught, you know,
10 you're holding the bag not his son, you're going to go, you're
11 going to get killed.

12 John Gotti Senior's telling me I know what you're
13 doing but I don't know what you're doing and if you get caught
14 you're dead.

15 Q Explain what you mean when you say that he was saying "I
16 know what you're doing but I don't know what you're doing."

17 A Well, he's letting me know, reminding me, this is our
18 laws. Our laws is I can't move drugs, but if you do move
19 drugs, you're going to get killed. I don't know nothing, I'm
20 looking the other way, but if you get caught you're taking the
21 weight for it, you're going.

22 Q But he was actually getting a piece of the drug money you
23 were kicking up?

24 A Yeah.

25 Q What was your understanding as to why you'd be killed if

3311

1 you were caught selling drugs?

2 A Because of the penalties. Drugs bring heat, bring
3 problems, bring violence, and I had his son that stayed
4 directly with me. I was directly with him, but --

5 Q When say drugs bring heat, what do you mean?

6 A The police, FBI.

7 Q You were told you'd be killed if you got caught. Did
8 anyone tell you what would happen to your partner in the drug
9 business, John Gotti Junior?

10 A Nothing will happen to him. It would be me.

11 Q Excuse me?

12 A It would be me. Nothing would happen to him.

13 Q You mentioned Bobby Borriello as one of the people who
14 talked to you about your drug dealing. Who was he?

15 A He was a made member of the Gambino family.

16 Q Showing you Government Exhibit 2 GG. Do you recognize
17 that person?

18 A Yes.

19 Q Who is that?

20 A Bobby Borriello.

21 Q What is the highest position you're aware of that he
22 attained in the Gambino family?

23 A Made member.

24 Q By the way, how big was Bobby Borriello?

25 A Six-two, 280.

3312

1 Q How big is the defendant?

2 A Five-seven, 170.

3 Q Was your drug dealing valuable to the Gambino family?

4 A Yes.

5 Q Were you rewarded for it by becoming a made member of the
6 family?

7 A No.

8 Q Why not?

9 A Because I'm Albanian. I can't get made.

10 Q Were you given any special treatment as an associate?

11 A Yes.

12 Q What?

13 A I got my own crew and they told me I could be treated as
14 if I was made, just like Jimmy Burke or Joe Watts was.

15 Q Who were Jimmy Burke and Joe Watts?

16 A They were guys that weren't Italian, were kind of like
17 respected bosses.

18 Q Bosses?

19 A They had the respect of being bosses almost, yeah.

20 Q You said you were allowed to have a crew. What does that
21 mean?

22 A I had my own guys under me to answer to me.

23 Q Did you get out of the cocaine business at some point?

24 A Yeah, I got out about '93.

25 Q Why did you get out?

3313

1 A Because of all the heat, all the murders; John Gotti
2 gettin' pinched, the father.

3 Q What does that mean that he got pinched?

4 A He got arrested, RICO.

5 Q What did that have to do with you deciding to stop your
6 cocaine business?

7 A Because of all the heat that was around, a lot of law
8 enforcement investigating everything, all kinds of murders,
9 the murders that we were committing and shootings, so we
10 expanded to other businesses.

11 Q The Gambino family didn't have a problem with you
12 stopping dealing drugs?

13 A No. I had to get it okayed. It was okayed.

14 Q Okayed it?

15 A John Gotti Junior.

16 Q During the time you with were with the regime, what other
17 kind of crimes did you commit besides dealing cocaine?

18 A Murder, conspiracy to commit murder, attempted murder,
19 assault, shootings, stabbings, extortions, bookmaking,
20 loan-sharking, police payoffs, jury tampering; money
21 laundering, union payoffs. Name it we did it. Prostitution.

22 Q Armed robberies?

23 A Armed robberies, home invasions.

24 Q Counterfeiting?

25 A Yes.

3314

1 Q Bribery?

2 A Yes.

3 Q Ticket scalping?

4 A Yes.

5 Q Obstruction of justice?

6 A Yes.

7 Q Kidnapping?

8 A Yes.

9 Q Were John Gotti Junior and his father aware of all your
10 criminal activity?

11 A Yes.

12 Q How were they aware of it?

13 A They were my bosses.

14 Q What does that mean?

15 A I have to get everything okayed from them prior to me
16 doing it.

17 Q What is that called when you get the okay?

18 A Putting it on record.

19 Q You testified that you were an associate in the Gambino
20 family for more than 20 years. What is the Gambino family?

21 A It's an organization, secret organization of men that go
22 out and commit crimes to better ourselves, line our pockets
23 with money.

24 Q Are there other similar organizations?

25 A Other families?

3315

1 Q Yes.

2 A Yes.

3 Q How many?

4 A Five in New York.

5 Q What are the other four families in New York?

6 A Bonanno, Colombo, Lucchese and Genovese.

7 Q Any New Jersey based family?

8 A Yes, DeCavalcante.

9 Q Have you ever heard the term Cosa Nostra?

10 A Yes.

11 Q What does that mean?

12 A Our thing.

13 Q What does it refer to?

14 A A secret organization.

15 Q Organized crime?

16 A Yes.

17 Q Was the Gambino family part of Cosa Nostra?

18 A Yes.

19 Q Did the Gambino family have a structure?

20 A Yes.

21 Q Can you explain it.

22 A There's the boss, there's an underboss that buffers the
23 rest of the guys from the boss. There's consigliere. He
24 makes -- helps make the decisions with other family businesses
25 and decisions that have to be made through our crew. There's

3316

1 captains and there's captains' crews and then there's
2 associates.

3 Q What do you call the guys who are in captain's crews?

4 A Soldiers.

5 Q What is the boss's role in the family?

6 A He calls all the shots. Everything goes through him
7 before anybody can make a move.

8 Q What is the extent of his power?

9 A With our family there is no extent of his power. He
10 calls all the shots, everything.

11 Q You said that captains run crews. You said that you had
12 a crew.

13 A That's correct.

14 Q Is that unusual?

15 A Yes.

16 Q Do you ever know of any other associates powerful enough
17 that they had their own crews?

18 A Jimmy Burke and Joe Watts, what I know of. I don't know
19 of anybody else.

20 Q You talked about soldiers. What is the function of a
21 soldier in the Gambino family?

22 A Twenty-four hours a day he's got to be available to his
23 captain, his bosses, seven days a week, every day of the year.
24 When something needs to be done, whether hurting somebody,
25 killing somebody, robbing somebody, or just to sit next to him

3317

1 if he's told to do that, that what's they do.

2 There is no I'm busy with my wife, my kids; I'm on
3 vacation, I'm sick, I'm not feeling good. There is no excuse.
4 You have to come in.

5 Q You said they are on call to be able to do violence. Is
6 there another purpose that soldiers serve besides committing
7 violence?

8 A Sure, making money.

9 Q What are some of the other names for soldiers?

10 A Goodfellow, wiseguy, our friend.

11 Q You mentioned that there's a rule about being available,
12 coming when you're called. Are you aware of any other
13 organized crime rules?

14 A Sure. You want me to name them?

15 Q Sure.

16 A Can't deal drugs, can't do drugs, can't sleep with
17 another member's wife or family member, daughter that's
18 married. You got to put things on record. Don't talk to the
19 police. Don't do what I'm doing, rattin'.

20 Q What is the penalty for ratting?

21 A Sitting where I'm sitting? Death.

22 Q Are there any rules or customs about physical appearance?

23 A Yeah. No facial hair.

24 Q Did you ever see anyone in organized crime with facial
25 hair?

3318

1 A No. Just him.

2 Q When you say "just him," who are you talking about?

3 A Charles Carneglia.

4 Q Did you also know him to be clean-shaved at times?

5 A Sure.

6 Q Any other ways you ever saw the defendant change his
7 physical appearance?

8 A Yes.

9 Q What?

10 A He would die his hair orange.

11 Q Did he ever tell you why he changed his appearance?

12 A Yeah, when he's going to do a score or if he's going to
13 do a murder or he's going to lay on somebody to hurt him.

14 Q Did he tell you what the purpose was?

15 A Yeah, so he can't be identified from different people,
16 individuals like you guys.

17 Q Did he ever talk to you about his beard?

18 A Yeah.

19 Q What did he say?

20 A He said that it's a secret organization so he's going to
21 keep it a secret. He said -- he brought up the Chin Gigante,
22 who was the boss of the Genovese family. He walked around in
23 a robe and acted like he was crazy. He said he was smart, so
24 he's going to do something like that, just like him, he's
25 going to be smart about it.

3319

1 Q What did you understand that to mean?

2 A That he wouldn't give an appearance of being a wiseguy.

3 Q You testified that members of organized crime are not
4 supposed to deal drugs. Can you pick any members of the
5 Gambino family who broke that rule?

6 A His brother John Carneglia, Gene Gotti, Arnold and
7 Funzie.

8 Q Who is Arnold and Funzie?

9 A Made guys in the Gambino family.

10 Q Do you know their full names?

11 A I don't recall.

12 Q Continue.

13 A Excuse me?

14 Q Continue.

15 A Mark Reiter, Eddie Lino -- we were all moving around
16 drugs.

17 Q You already mentioned Gotti Junior and Gotti Senior. How
18 about Pete Gotti?

19 A Yes, Pete Gotti.

20 Q Bobby Borriello, did you know him to deal drugs?

21 A He tried to mix around in the business. He really didn't
22 get in it. He didn't have enough knowledge of it.

23 Q Ronnie Trucchio?

24 A Yes.

25 Q JoJo Corozzo?

3320

1 A Yes.

2 Q The defendant?

3 A Yes.

4 Q To your knowledge, were any of these people ever punished
5 by the Gambino family for dealing drugs?

6 A No.

7 Q Who decides if the family's rules are enforced?

8 A The boss.

9 Q In your experience did John Gotti Senior enforce those
10 rules consistently?

11 A No, not at all. It was convenient rules.

12 Q He enforced them differently based on who violated them?

13 A Sure.

14 Q Do valuable members of the family get away with breaking
15 more rules?

16 A Most definitely.

17 Q Are killers valuable members of the family?

18 A Yes, they are.

19 Q What does an associate's power come from?

20 A From his boss, whoever his made member is.

21 Q The guy he reports to?

22 A Yes.

23 Q Where did your power come from?

24 A From my bosses.

25 Q Who were who?

3321

1 A John Gotti Junior, his father.

2 Q You testified you committed murders when you were with
3 the regime. Was the Louie DiBono murder one of those murders?

4 A Yes, it was.

5 Q Who was Louie DiBono?

6 A Made member of the Gambino family.

7 Q How did you become involved in his murder?

8 A John Gotti called me over to the club, Junior, and took
9 me for a walk-talk with Bobby Borriello.

10 Q Which club?

11 A The club on 105th Street and 101st Avenue.

12 Q Do you know the name of it?

13 A There is no name on that club.

14 Q So he called you over for a walk-talk, took you on a
15 walk-talk with you, him, and Bobby Borriello?

16 A That's it.

17 Q When did this take place?

18 A Somewhere in 1990, the fall I guess.

19 Q Had anything just happened to John Gotti's Junior?

20 A Yeah, he just became a skippers, a captain.

21 Q What did he tell you on the walk-talk?

22 A That it's his first job as a captain. He wants to make
23 sure he does it right, that we do it right.

24 Q What is his first job?

25 A First job as a captain to kill somebody, follow orders

3322

1 from the boss, to have the work, piece done, whatever you want
2 to call it.

3 Q What was the piece of work that he had been ordered from
4 the boss to have done?

5 A Kill Louie DiBono because he wouldn't come in.

6 Q Why was he talking to you and DiBono about it?

7 A Because Louie --

8 Q Sorry. Why was he talking to you and Borriello about it?

9 A Because he couldn't find him in New York and he had asked
10 me to find him, locate him. He had a tip that he was down in
11 Atlantic city gambling. He asked me to look for him down
12 there.

13 Q Did he put a team together to commit the murder?

14 A Yes.

15 MS. SHARKEY: Objection as to leading.

16 THE COURT: I will allow it.

17 Q Did he tell you who was on that team?

18 A Yes.

19 Q Who?

20 A Charles Carneglia, myself, and Bobby Borriello.

21 THE COURT: Would you fix the time and place of that
22 discussion.

23 Q I believe you testified this was in front of Junior's
24 club on 105th -- 101st Avenue and 105th Street in the fall of
25 1990; is that correct?

3323

1 A Correct.

2 Q And at that time when you were placed on the hit team
3 with the defendant and Bobby Borriello, who did you know the
4 defendant to be? Who was he to you?

5 A He was a friend of mine.

6 Q Did you know his position in the family?

7 A Yeah. At that time he was an associate.

8 Q Did you know any of his family members?

9 A Yes. Johhny Carneglia.

10 Q What was his -- was that his brother?

11 A That's his brother.

12 Q What was his position in the family?

13 A Captain.

14 Q Showing you Government Exhibit 2 C1. Do you recognize
15 that person?

16 A Yes.

17 Q Who is it?

18 A Charles Carneglia.

19 Q What is the highest position you're aware of him
20 attaining in the Gambino family?

21 A Made member.

22 Q Showing you 2C-2. Who is that?

23 A Charles Carneglia.

24 Q Showing you 2 LL. Who is that?

25 A Johhny Carneglia.

3324

1 Q What is the highest position you're aware of him
2 attaining in the Gambino family?

3 A Captain.

4 Q I show you what has been marked as Government Exhibit 2
5 FF. Who is that?

6 A Louie DiBono.

7 Q This is the man that John Gotti Junior asked you, Bobby
8 Borriello, and the defendant to kill?

9 A Yes, that's correct.

10 Q Because he wouldn't come in when John Gotti Senior called
11 him?

12 A Yes, that's correct.

13 Q Showing you what has been marked as Government
14 Exhibit 30. Who is that?

15 A That's Louie again.

16 Q I believe you testified that John Gotti Junior gave you
17 an assignment at that first meeting. What did he tell you to
18 do?

19 A To locate Louie DiBono.

20 Q Did he tell you where to look for him?

21 A Yeah, he said he had information he was down in Atlantic
22 City gambling a lot.

23 Q Did John Gotti Junior tell you why you were picked for
24 this assignment?

25 A Yeah, because I had property I owned and I lived down in

3325

1 Cherry Hill, New Jersey, about 40 minutes from Atlantic City.

2 I had a lot of connections down in Atlantic City, player
3 representatives, people that worked down in the casinos.

4 Q Did you have an understanding as to why John Gotti Junior
5 thought DiBono might be in Atlantic City?

6 A Say that question again.

7 Q Did you have an understanding as to Junior thought that
8 DiBono would be in Atlantic City?

9 A Yeah, he was a gambler and somebody gave him information
10 that he was down there frequently.

11 Q During that same first conversation with you, Junior and
12 Bobby Borriello, where Junior put you on the hit team, what,
13 if anything, did Bobby Borriello say about it?

14 A Bobby wanted to hold off the hit because he had some
15 personal problems himself. He was worried about getting hit
16 himself. John didn't want to hear about it.

17 Q What eventually happened to Borriello?

18 A He got killed in '91.

19 Q Do you know when in '91?

20 A Approximately March or April. I was in prison at the
21 time. I used to talk to him every morning.

22 Q After that conversation with Junior and Borriello did you
23 go to Atlantic City?

24 A Yes.

25 Q What did you do when you got there?

3326

1 A John told me to be discreet. So I went and spoke to some
2 player representatives down in the casinos to see if they
3 would mention or say anything that some of our friends were
4 down there gambling. I wanted them to tip me without
5 realizing they were tipping me. I said not to make noise
6 about it, do it real discreet.

7 Q Did you ask for him by name?

8 A Of course not.

9 Q How long did you look nor DiBono in Atlantic City?

10 A Couple of weeks, maybe 2, 3 weeks.

11 Q Did you stay in Atlantic City the whole time you were
12 looking for him?

13 A Some days. A couple of days a week I'd stay, a couple of
14 days I'd go back and forth.

15 Q From your house in New Jersey?

16 A Yeah.

17 Q Were you able to find DiBono?

18 A No, I wasn't.

19 Q Did you report back to Gotti Junior and tell him you
20 couldn't find DiBono?

21 A Yeah, I reported back to him.

22 Q What did he tell you?

23 A He told me not to worry about it, that they got ahold on
24 him here at the World Trade Center.

25 Q Did he say anything about your role in the murder?

3327

1 A Yeah, he told me I was off the hit.

2 Q Did he tell you why you were being pulled off the hit?

3 A Yeah. He told me he's going to throw Kevin McMahon on
4 the hit with Charles and Bobby Borriello.

5 Q Did you have an understanding as to why you were replaced
6 by Kevin McMahon?

7 A Yeah. Kevin is good with surveillance and a car thief,
8 and he's good with driving, that's his thing. I'm not. I'm
9 from Jersey, that area, so it would have been beneficial for
10 me to be on it because I knew the roadways down in Atlantic
11 City they didn't.

12 When the hit was going to be in New York, it was
13 going to go back to them and Kevin because of that.

14 Q Did Gotti Junior tell what you the plan would be for
15 killing DiBono?

16 A No. That they was just going to leave them there in the
17 garage once they hit him.

18 Q What was your understanding as to where they were going
19 to kill DiBono?

20 A World Trade Center, garage.

21 Q And he said the new hit team was going to be who?

22 A Kevin McMahon, Charles Carneglia, and Bobby Borriello.

23 Q Did he say who was going to do what on the hit team?

24 A He said, I believe, Charles was going to be shooter,
25 Kevin was working surveillance and driving, and Bobby would be

3328

1 the backup.

2 Q Showing you what has been marked as Government Exhibit 2

3 T. Who is that?

4 A Kevin McMahon.

5 Q What is the highest position he attained in the Gambino
6 family?

7 A Associate.

8 Q Who do you know Kevin McMahon to be the son of?

9 A Adopted son of Johnny Carneglia.

10 Q You testified he was an associate in the Gambino family?

11 A Yes.

12 Q Who was he around?

13 A He was around Johnny and Charles.

14 Q Was anyone else present for your conversation with Gotti
15 Junior where he took you off the hit team?

16 A Bobby Borriello.

17 Q Was DiBono killed after you had this conversation?

18 A Yes.

19 Q How did you first learn he was killed?

20 A John Gotti Junior told me so.

21 Q What exactly did he tell you?

22 A He told me the piece was successful, the hit was
23 successful.

24 Q Did he tell you anything else?

25 A No. Everything went as planned. That's it.

3329

1 Q You testified that this was his first hit as a captain.

2 A That's correct.

3 Q Did he say anything about that?

4 A That everything --

5 MS. SHARKEY: Objection as to leading.

6 THE COURT: I will allow it. You may answer.

7 A That everything went well and that his first hit as a
8 skipper went well and that he's very capable now.

9 Q Was he happy about it?

10 A Yeah, he was elated.

11 Q Did he tell you how the murder took place?

12 A Only that they killed him in the garage. That's it.

13 Q Did he tell you how they killed him?

14 A Yeah. He said they shot him.

15 Q Did he tell you what happened to the body?

16 A They left him in the garage.

17 Q Did he tell you afterwards which member of the hit team
18 was the shooter?

19 A He told me Charles.

20 Q What's your best recollection of when this murder took
21 place?

22 A The winter of 1990.

23 Q How do you remember that?

24 A Because I'm going to go to prison in March. Shortly
25 after these guys are going to get straightened out.

3330

1 Q Who got straightened out?

2 A Charles Carneglia, Jackie, Little Jackie Cavallo, Tommy
3 Sneakers and Vinnie Butch.

4 Q What does it mean to get straightened out?

5 A They're going to be made members in the Gambino family.

6 Q What was your understanding as to why the defendant got
7 made at that time?

8 A Well, a big part of it --

9 MS. SHARKEY: Objection. Foundation.

10 THE COURT: I will allow it.

11 Q What was your understanding as to why the defendant was
12 made in the spring of 1991?

13 A A big part of it was that he did that piece of work, he
14 killed Louie. And the rest was his past history of doing work
15 when he's told.

16 Q Did you ever speak with the defendant about the DiBono
17 murder?

18 A No.

19 Q Were you ever in prison in Fort Dix?

20 A Yes.

21 Q Did you ever have a conversation with the defendant when
22 you were in prison in Fort Dix?

23 A Yes.

24 Q When did that conversation take place?

25 A 2002. The fall of 2002.

3331

1 Q Tell me about that conversation.

2 A He just came on the compound and Skinny Dom, a captain in
3 the Gambino family was there. We were discussing Genie Gotti
4 asking Charles Carneglia and Skinny Dom to hit me when they
5 were up on a visit.

6 Charles walked over and he accused me of being a rat
7 bastard. He said that I was cooperating on a smuggling case
8 into a facility at that time, sperm kits to be exact.

9 Q You'd gotten in trouble for smuggling sperm kits?

10 A Yes.

11 Q Can you explain to the jury what that was about.

12 A I had a good friend of mine that got 14 years in prison.
13 His wife was 40-years-old, she wanted to get pregnant. I was
14 paying off a guard to bring my friend kits. He would fill the
15 kits. I would take the kits back out and bring to it a sperm
16 bank for her so she could get pregnant.

17 Q How did that lead to the defendant calling you a rat?

18 A My friend and his wife got arrested and I told them it
19 was all right for them to cooperate against me so she wouldn't
20 go to jail. So we all went in and we sat down with the
21 prosecutor, which -- that's called a debrief session. We had
22 a debrief session with the prosecutor, and I took a small jail
23 sentence.

24 Charles took that as me ratting, and he accused me
25 of being a rat bastard. So at that time I was annoyed. I

3332

1 told him if I was a rat he wouldn't be standing here now after
2 the Louie thing. He told me let's not go there. Just don't
3 even go there.

4 Q What did you understand that to mean when he said don't
5 even go there?

6 A Don't even bring up a murder.

7 Q When was the next time you talked to the defendant after
8 that?

9 A I never did.

10 Q That was in the fall of 2002 in Fort Dix?

11 A That's correct.

12 Q During that conversation in Fort Dix did the defendant
13 mention Kevin McMahon?

14 A Yes.

15 Q What did he say?

16 A He said he got a five-year jail term because Kevin's a
17 rat, and he was pointing across the street. Kevin happened to
18 be in the camp across the street.

19 Q Do you remember how he referred to Kevin?

20 A Called him a rat. A piece of shit.

21 Q Was anyone else present during this conversation?

22 A Yeah, Skinny Dom.

23 Q Where was this taking place in the jail?

24 A When you come through R&D, that's reception in the
25 prison, right out that front door. We were all talking right

3333

1 there.

2 Q Is it unusual that you would be able to talk with -- what
3 was Skinny Dom's position in the Gambino family?

4 A He was a captain.

5 Q Was it unusual that you, an associate in the Gambino
6 family, would be able to have a discussion with a captain and
7 a soldier in the Gambino family in jail?

8 A No, not at all. If you're not working in jail you have
9 freedom to roam around the prison yard.

10 (Continued next page)

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Alite - direct/ Burlingame

3334

1 DIRECT EXAMINATION

2 BY MR. BURLINGAME:

3 Q Showing you Government Exhibit 2B, who is that?

4 A Vinny Dom.

5 Q V as in Victor.

6 Do you know his last name?

7 A Piazza, something. I don't know how to spell it.

8 Piazza, something.

9 Q What is the highest position he attained the Gambino
10 family?

11 A Skippers. Captain.

12 Q Did you ever have a conversation with Ted McMahon about
13 the DiBono murder?

14 A Yes.

15 Q Where did that conversation take place?

16 A Prison, Hernando County.

17 Q Where is Hernando County?

18 A Florida.

19 Q When did the conversation take place?

20 A Couple of months after I got back from extradition, from
21 Brazil prison. So, I'd say, 2006 sometime.

22 Q Early or late?

23 A Late.

24 Q Were you cooperating at the time?

25 A No.

Alite - direct/ Burlingame

3335

1 Q Tell me how it came to pass that you and McMahon were
2 talking about Hernando County jail?

3 A We were in different sections of the jail and we were
4 going to church. We are lined up to go to church. We were
5 walking through the laundry and somebody on camera said that
6 one of the federal inmates -- there were six of us -- stole a
7 T shirt out of laundry room. So they ask to put us all in the
8 holding cell, which they did.

9 Q And Ted McMahon was one of the people who got put in the
10 holding cell with you?

11 A Yeah, unfortunately, Kevin didn't want to go in there
12 with me.

13 Q In a couple of sentences what was the nature of your
14 conversation in the holding cell?

15 A In the holding cell I told him he's a rat. His
16 brother-in-law told me he was a rat.

17 Q Who's his brother-in-law?

18 A Michael Finnerty. He told me -- do you want me to finish?

19 Q Continue, yes.

20 A I told him I was mad at Ronny, one arm fruit dealer who
21 was my codefendant and my partner over the years, in and out
22 of the drug business, and I told him he's a rat, that he
23 blamed the whole case on me in Tampa, Florida -- middle
24 District of Florida. He said that's not who I should be mad.
25 I should be mad at John Gotti Junior. because he's a rat. I

Alite - direct/ Burlingame

3336

1 said, yeah, I heard the same thing, that he's a rat and he's
2 been debriefing -- cooperating with the FBI, and these guys
3 are all blaming the case on me.

4 From that point I told Kevin if I was a rat you
5 wouldn't be standing here either after that Louie DiBono
6 murder. You would be charged with it.

7 Q How did that come up where you said "if I was a rat"?

8 A Because Kevin said I heard you were talking too. I says
9 who are you bullshitting. I thought that Kevin at that time
10 was wearing a wire, and he was in the cell with these guys,
11 and he was trying to get me to talk. So at that time when he
12 was saying that, I said to him about that, and I said I also
13 know that you did an armored car. You guys would be doing
14 life if I was a rat. I'm not talking on anybody. You guys
15 are all talking.

16 Q You said you had heard from his brother-in-law that he
17 was cooperating?

18 A That's correct.

19 Q Is sorry. Who was his brother-in-law's again?

20 A Michael Finnerty.

21 Q When did you start hearing that this man was a rat?

22 A While we was at Fort Dix -- Kevin was in Fort Dix, the
23 FBI came to see him at the camp. He didn't know that. We
24 knew that they came there. Whoever he engaged in conversation
25 I still don't know, but at that time I thought he did.

Alite - direct/ Burlingame

3337

1 Q You know, approximately, what the date was?

2 A Yeah, it was 2003.

3 Q Showing you Government Exhibit 2 quadruple C, who is
4 that?

5 A That his brother-in-law Michael Finnerty.

6 Q What is the highest position he attained in the Gambino
7 family?

8 A Associate.

9 Q What was first time you met the defendant?

10 A Mid 80s, I think.

11 Q How did you meet him?

12 A John Gotti Junior introduced us.

13 Q Had you heard his name before you met him?

14 A Sure. Plenty think of times.

15 Q From who?

16 A From John Gotti Junior. From John Carneglia, his brother,
17 from John Gotti Senior.

18 Q When you had met with him were you under John Gotti
19 Junior?

20 A Yeah, that's right.

21 Q Why did John Gotti Junior introduce you to the defendant?

22 MS. SHARKEY: Objection to form.

23 THE COURT: I'll allow it.

24 Q What is your understanding why John Gotti Junior
25 introduced you to the defendant?

Alite - direct/ Burlingame

3338

1 A Well, he told me why. What he said the guy is dangerous.
2 He's a worker. He wanted us to get to know each other because
3 we will be doing work together in the future.

4 Q What does that mean to do work?

5 A We will be killing guys in the future together, hurting
6 guys together.

7 Q What, if anything, did John Gotti Junior tell you about
8 the defendant before he introduced you to him?

9 A He told me that he was an honorable man. For a while he
10 can't come around the club. His father doesn't want him
11 around there because he killed a court officer. He referred
12 to him as a cop and then he said, well, he's a court officer.
13 Well, it's all the same. They got badges.

14 Q Do you recall where you were when you met the defendant
15 for the first time?

16 A Yeah, I believe I was at Our Friend's Club, Richie
17 Gotti's club on 99th and 101st Avenue.

18 Q Is there any other social club?

19 A Yeah, around the corner from John Gotti's Senior's club
20 the Bergen, Hunt & Fish Club.

21 Q You mentioned the defendant's brother John Carneglia, did
22 you know the defendant's brother before you met the defendant?

23 A Yes, I did.

24 Q Had you committed crimes on his orders?

25 A Yes, I did.

Alite - direct/ Burlingame

3339

1 Q Approximately how many?

2 A I don't know. Handful. Five or six, I guess.

3 Q Without going through them all in detail, what sort of
4 crimes did you commit on John Carneglia's orders?

5 A Assault. Told me not to kill a couple of guys; just to
6 hurt them. Blackjack them. Baseball bat them.

7 Q Did John Carneglia ever tell you about his brother?

8 A Yes.

9 Q When did he talk to you about his brother?

10 A When he was on the run, he said he was on the lam for a
11 while upstate New York, they didn't really want him around too
12 much because there was still heat on him for the killing of
13 the court officer.

14 Q What time period was?

15 A This early 80s.

16 Q Now, when you met the defendant I think you testified he
17 was an associate, correct?

18 A Correct.

19 Q Did John Gotti Junior explain to you why the defendant
20 had not become a made member in the Gambino family?

21 A Yeah. They said he was hard to control, and his father
22 liked him, and if they made him a made guy they don't know if
23 he will be able to control him. If they don't can't control
24 him the next answer is to kill him. They don't know if they
25 want to make him a made guy because they don't want to end up

Alite - direct/ Burlingame

3340

1 having to kill him.

2 Q Now, do you know if the defendant did become a made
3 member of the Gambino family?

4 A Yes, he did.

5 Q Do you know he was made?

6 A Yes.

7 Q What was your understanding as to why?

8 A Because of the hit on Louie DiBono was successful and
9 he's getting rewarded by it.

10 Q Do you know where the defendant was made?

11 A Yeah, he was made in my house. Well, actually my wife's
12 house. I was with him there.

13 Q Where within the house?

14 A Down in the basement, Howard Beach.

15 Q Now is this your wife the jury saw the marriage
16 certificate of before?

17 A No. That's my re ex-wife.

18 My wife -- I'm not legally married to her, my
19 common-law-wife.

20 Q What's her name?

21 A Sonadia Depita (ph).

22 Q Where is her house?

23 A Howard Beach Queens.

24 Q How do you know that the defendant was made in the
25 basement of your common-law-wife's house?

A1ite - direct/ Burlingame

3341

1 A John Gotti Junior asked me to make arrangements for
2 security around the block prior to straightening these guys
3 out, and to de-bug the house.

4 Q Did you do that?

5 A Yeah, I did.

6 Q Were you present for the ceremony?

7 A No, I wasn't. I was supposed to be but I went to prison
8 again.

9 Q How close to the ceremony did you go to jail?

10 A Within about a week of it they called me in early and we
11 tried to get it postponed. John asked me to get postponed.
12 The lawyers couldn't do it. They demanded me in, into
13 custody. I went.

14 Q And do you know when you reported into custody?

15 A Excuse me?

16 Q Do you know when you reported to jail?

17 A I believe it was March of '91. It could have been April.

18 Q Do you know if the defendant was made at that time?

19 A Yeah.

20 Q About a week after you went to jail?

21 A Yes, yes.

22 MS. SHARKEY: Objection to leading.

23 THE COURT: I'll allow it.

24 Q How do you know the defendant was made about a week after
25 you went to jail?

Alite - direct/ Burlingame

3342

1 A Because when I get out of prison John Gotti Junior sends
2 Charles, Jackie Tommy, all three of them got made in my house,
3 in my wife's house -- excuse me, to come see how I'm doing
4 when I got out of the jail. I was sick. They thought I had
5 Chron's.

6 Q You mentioned the defendant Jackie and Tommy. What's
7 Jackie's full name?

8 A Jack Cavollo, I think. Something like that.

9 Q How about Tommy?

10 A I don't know Tommy's full name. I know Tommy sneakers.
11 That's how I call him.

12 Q Were you aware of anyone else who was made with the
13 defendant Tommy and Jackie?

14 A Yeah, Charles Carneglia and Vinny Butch.

15 Q Showing you Government Exhibit 2E, who is that?

16 A Jackie.

17 Q 2B?

18 A Tommy.

19 Q 2-00.

20 A Vinny.

21 Q Is this Vinny Butch?

22 A Yes.

23 Q Do you know his last name?

24 A I don't know his last name either.

25 Q And what's the highest position you are aware of that he

Alite - direct/ Burlingame

3343

1 obtained in the Gambino family?

2 A Made member.

3 Q What about Tommy sneakers, what is the highest position
4 he attained?

5 A Skipper.

6 Q What about Jackie?

7 A Made member.

8 Q Did you say you knew his last name?

9 A Cavollo, or something like that.

10 THE COURT: We are going to have to take a break.

11 The jurors need a break.

12 (Whereupon, the jury exited)

13 (Court recessed)

14 (Court resumed)

15 Jon Alite, resumed the stand and testified further
16 as follows:

17 (Jury now present in the courtroom)

18 THE COURT: Be seated please.

19 DIRECT EXAMINATION (Cont'd)

20 BY MR. BURLINGAME:

21 Q Before the break you testified that when you got out of
22 prison you got a visit from Jackie Cavollo, Tommy sneakers and
23 the defendant.

24 Where did that visit take place?

25 A South Brunswick, New Jersey. I own a condo there, 2192.

Alite - direct/ Burlingame

3344

1 Q And approximately when did the visit take place?

2 A The summer of '91.

3 Q And you went to jail in the spring '91?

4 A Yeah, I only went for three or four months. Something
5 like that.

6 Q What was that stint in jail for?

7 A Assault.

8 Q And why were the defendant, sneakers and Jackie Cavallo
9 visiting you?

10 A I didn't feel good, and that was one reason, and John
11 Junior sent them there to check up on me, see how I was doing.
12 The other was to tell me about them getting straightened out.

13 Q What was wrong with you?

14 A They thought I had Chron's disease, and I didn't have it.

15 Q So tell me about what you talked about during that visit?

16 A Just small talk, basically, and then joking around about
17 them getting straightened out in my wife's house. I had a
18 little brown table downstairs. It was an old table -- old
19 furniture. It was a basement apartment and they joked about
20 the furniture that was down there, that I shouldn't fix it up
21 so nice for them. Just stupid conversation. Nothing --
22 nothing really besides that.

23 Q Was the furniture actually nice?

24 A No, it was old. It was a little brown table.

25 Q Why did you leave the table out?

Alite - direct/ Burlingame

3345

1 A They needed it for the ceremony. When they straightened
2 the guy they had to put the gun on there, the knife.

3 Q Did you know of any relationship between the three guys
4 Jackie Cavallo, Tommy sneakers and the defendant?

5 A Yes, they were all best friends.

6 Q Do you know if they belonged to the same faction of the
7 Gambino family?

8 A They were all loyal to the Gotti family.

9 Q After the defendant was made who was his captain?

10 A After what?

11 Q The defendant was made who was his captain?

12 A John Gotti Junior.

13 Q Same as you?

14 A Yes.

15 Q Was the defendant a good earner at the time he was made?

16 A No.

17 Q Were you ever told to give him any of the money that you
18 earned?

19 A No.

20 Q Are you familiar with restaurant name as Mateo's?

21 A Yes.

22 Q How did you become familiar with that restaurant?

23 A John Gotti Junior introduced me to one of the guys that
24 were about to open up the restaurant with two other brothers,
25 the he told me to service that restaurant and -- which I did.

Alite - direct/ Burlingame

3346

1 Q What does that mean you service the restaurant?

2 A If he has any problems, if he needs money, loans while
3 they were trying to fill the place, that I try to look out for
4 them because they were going to pay me a weekly fee for
5 protection.

6 Q So you were extorting Mateo's?

7 A Yes, that is what I was doing.

8 MS. SHARKEY: Objection; Leading.

9 THE COURT: I'll allow it.

10 Q When did you start extorting Mateo's?

11 A Probably around '88, '89.

12 Q Did there come a time when you stopped extorting Mateo's?

13 A Yes.

14 Q When?

15 A When John Gotti Junior told me to hand it over to Tommy
16 sneakers after he got straightened out.

17 Q Why did he tell you to hand it over to Tommy sneakers?

18 A Because he is trying to get his crew to earn some money.

19 Q And sneakers was part of John Gotti Junior's crew?

20 A He was part of John Gotti's crew. These guys weren't big
21 earners, we were, and we were trying to give them a blow.

22 Q You testified the defendant was not a good earner, why he
23 get made if he wasn't a good earner?

24 A Because he's good worker.

25 Q What does a that mean?

Alite - direct/ Burlingame

3347

1 A He's a good killer. Loyal. Loyal to the Gottis.

2 Wouldn't question anything. Just do what he was told.

3 Q Where did you know the defendant to hang out?

4 A His apartment, Kevin McMahon's garage and his house.

5 Diner on Linden Boulevard used to call the Bat Cave. Philly
6 Tackles on Cross Bay Boulevard once in a while.

7 Q Now, you said his house and his apartment, where was his
8 house?

9 A I'm not following that question.

10 Q I'm sorry. Maybe I misheard. You said that you would see
11 the defendant at his apartment, correct?

12 A Yes.

13 Q Where was that apartment located?

14 A Off Cohancy Street in Cross Bay.

15 Q Did you testify you also saw him at his house?

16 A At his mother's house, but I didn't say that. Yeah, I
17 seen him at his mother's house.

18 Q I apologize. Where was his mother's house located?

19 A Howard Beach.

20 Q Did you know him to live with his mother?

21 A Yes, one time.

22 Q And did anyone live near his apartment?

23 A Yes.

24 Q Who?

25 A Kevin McMahon lived right off the corner.

Alite - direct/ Burlingame

3348

1 Q You mentioned that he'd hung out Philly Tackles place,
2 what was that?

3 A Something to do with fishing, supplies and tackling I
4 guess. I'm not a fisherman, but something with fishing.

5 Q Who owned it?

6 A This guy Phil. I don't know his last name either.

7 Q Did he have a relationship with the defendant?

8 A Yeah, he was an associate of Charles'.

9 Q To your knowledge did the defendant spend much time at
10 social clubs as other members of the Gambino family?

11 A No, not really. Here or there he went. He wasn't the type
12 to hang around the clubs.

13 Q Did he ever talk to you about spending time at social
14 clubs?

15 A Yeah. He would say that he didn't like them. He
16 wouldn't do it. He was like his brother that way. If you need
17 me call me. If you got a piece of work I'll do it but don't
18 bother me hanging around clubs all day.

19 Q Did you ever see the defendant upset that he'd been
20 called into a social club?

21 A Yes.

22 Q When?

23 A Slightly after he was straightened out. Maybe a couple
24 months later.

25 Q What happened?

Alite - direct/ Burlingame

3349

1 A John Gotti Junior had one of his flunkie guys. This guy
2 named McLaughlin calling these guys up, Jackie, Tommy and
3 Charles and make them come to the club at like one o'clock in
4 the morning when he was sleeping. Charles and Tommy, Jackie
5 hung around for couple hours. Me and John were drinking,
6 fooling around, playing cards. They were trying to get John
7 here. So they kept talking to me because they know I'm closer
8 to John. Find out what he wants, find out what he wants.
9 About four o'clock in the morning John tells them, all right,
10 good night. And Charles and Jackie, Tommy were steaming. John
11 was just flexing muscles. Showing that he can control them
12 when he wants any time he wants. They weren't happy about it.

13 Q You testified you didn't see the defendant at social
14 clubs frequently, did you ever see him at any social clubs?

15 A Yeah, I seen him at social clubs, yeah.

16 Q Which ones?

17 A Our Friends, Bergen, Hunt & Fish.

18 Q You testified Bergen, Hunt & Fish was John Gotti Senior's
19 club?

20 A Yeah, that's correct.

21 Q Whose club was Our Friend?

22 A Richie Gotti.

23 Q What about the Ravenite?

24 A Mulberry Street. That's John Gotti's other club.

25 Q John Gotti Senior?

Alite - direct/ Burlingame

3350

1 A Yes.

2 Q Did you ever go to the Ravenite?

3 A Yes.

4 Q Did you ever see the defendant there?

5 A Well, no. I don't recall seeing him there.

6 Q Was there ever a period you were aware that the defendant
7 was banned from any social clubs?

8 A Back in after the killing of that court officer.

9 Q Which social club was he banned from?

10 A Anything to do with the Gambino family.

11 Q Who told you he was banned?

12 A John Gotti Senior and John Gotti Junior.

13 Q When did they tell you this?

14 A It was early 80s then.

15 Q Did they tell you why he was banned?

16 A Because they didn't want the heat of him killing a cop
17 around the Gambino family.

18 Q Who did the defendant primarily spend time with in the
19 1980s?

20 A His brother Johnny Carneglia, Peter Cuccaro, Joey (ph)
21 Cavalcante, Steven Cuccaro, Andrew Curro (ph), Sal Puma (ph).
22 I think that's about it off the top of my head. That's about
23 most of them.

24 Q Showing you Government Exhibit 2BB1, who is that?

25 A Peter Cuccaro.

Alite - direct/ Burlingame

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1 Q Do you have a nickname for him?

2 A Bug.

3 Q What is highest position he obtained in the Gambino
4 family?

5 A Associate.

6 Q Showing you Government Exhibit 2JJ, who is that?

7 A Joe Cavalcante.

8 Q What is the highest position he obtained in the Gambino
9 family?

10 A Associate.

11 Q Showing you Government Exhibit 2 quadruple A, do you
12 recognize that person?

13 A No.

14 Q What about the 1990s, who were the defendant's -- people
15 the defendant primarily hung around with in the 1990s?

16 A Peter Cuccaro, Kevin McMahon, myself, Adriano (ph),
17 Johnny Burke, Michael Malone, Joe Panzarella.

18 Q Are there two Joe Panzarellas?

19 A Yes, there's a father and son.

20 Q Which one are you talking about?

21 A The son.

22 Q Junior?

23 A Yes.

24 Q What about -- you mentioned the defendant was
25 particularly close with Tommy sneakers and Jackie Cavallo, did

Alite - direct/ Burlingame

3352

1 you spend time with them in the 1990s?

2 A Yes.

3 Q You testified he was under John Gotti Junior, did you see
4 them together frequently?

5 A Yes.

6 Q What about Bobby Boriello?

7 A Yes.

8 Q Showing you Government Exhibit 20 UU, who is that?

9 A Joe Panzarella, Jr.

10 Q What was his position in the Gambino family?

11 A Associate.

12 Q Who is he under?

13 A Charles Carneglia.

14 Q Who was the defendant closest to you during the 1990s?

15 A Closest to, you said.

16 Q Yes.

17 A It would have to be Kevin McMahon.

18 Q Do you know how the defendant met Kevin McMahon?

19 A Yeah, his brother adopted him.

20 Q Do you know why the defendant's brother adopted Kevin
21 McMahon?

22 A Yeah, Kevin McMahon's mother and father were drug addicts
23 of some sort and I think he was living with has grandmother or
24 something, and he got kicked out of the house, and he was
25 living under the porch, or in the backyard of Johnny's house.

Alite - direct/ Burlingame

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1 Something like that -- Johnny Carneglia's house. He was on
2 the street and Johnny took him in.

3 Q Did you see Kevin McMahon often?

4 A Yeah, I seen him often.

5 Q When would you see him?

6 A Social clubs.

7 Q When?

8 A When would I see him? When he was with Charles, when I
9 went to Charles' apartment, when I went to Kevin's garage.

10 Q Did you like him?

11 A No, not particularly, no.

12 Q Why not?

13 A He is an irritating guy. Pain in the ass. Asked too many
14 questions.

15 Q Was there anything he was particularly good at?

16 A Yes.

17 Q What?

18 A Surveillance, stealing cars, and driving cars.

19 Q Did you know him to be a violent guy?

20 A No.

21 Q Was he a leader?

22 A No.

23 Q Who had the power in his relationship with the defendant?

24 MS. SHARKEY: Objection.

25 THE COURT: I will allow that question.

Alite - direct/ Burlingame

3354

1 A He did. Charles Carneglia.

2 Q You couldn't describe them as equals?

3 A No. Nowhere near equals.

4 Q What was Kevin McMahon's relationship with John Gotti
5 Senior?

6 A He had a pretty good relationship with him. John Gotti
7 Senior took a liking to him for several reasons, I guess. One,
8 because of his background that he didn't have no -- no,
9 family, and nobody. So he took a liking to him. He felt bad
10 for him. Two, because Johnny Carneglia accepted him and Johnny
11 Carneglia was very close to John Gotti. So John Gotti
12 accepted him, and three, he says -- John -- Kevin was his
13 lucky charm guy.

14 Q What does that mean?

15 A That means when he gambled he kept him around, when he
16 went on trial he kept him around, when he drove his boat, not
17 guilty, he drove him around.

18 Q What color was that boat?

19 A Red and white.

20 Q Have you ever been on that boat?

21 A Yes.

22 Q Do you know when Gotti Senior took that boat out?

23 A Yeah, usually we went to the Hamptons and Fire Island
24 with it.

25 Q What did John Gotti Junior think of McMahon's

Alite - direct/ Burlingame

3355

1 relationship with his father?

2 A He was envious of it. Jealous of it.

3 Q Why?

4 A Because his father didn't like John hanging around as
5 much as he would let Kevin hang around for some reason.

6 Q Did John Gotti Junior dislike McMahon for any other
7 reasons?

8 A Yes.

9 Q What?

10 A He blamed Kevin for giving the mini bike to his brother
11 Frankie and Frankie died.

12 Q Is it fair to say Gotti Junior hated Mr. McMahon?

13 A Yeah. Worse than that.

14 Q Did he ever hurt him?

15 A Yes.

16 Q How?

17 A He shot him.

18 Q What happened?

19 A Me and John were driving around in Howard Beach. He
20 wanted to stop at Kevin's apartment to look for this Frankie
21 Redici (ph), the guy that took one of those pictures. He went
22 to the apartment looking for him and Kevin was in there with
23 this other guy Hector, Spanish guy, that they grew up with.
24 John came in. He was fooling around with 22 or 25. I believe
25 it was 25 automatic.

Alite - direct/ Burlingame

3356

1 Q What is a 25 automatic?

2 A Gun. Twenty-five automatic pistol, and he was waving it
3 around. Kevin made fun of him.

4 Q Why did Kevin make fun of him for waving a gun around?

5 A Because it was so small.

6 Q Small gun?

7 A Small gun.

8 Q Continue.

9 A Kevin said joking around. John took it personal. Kevin
10 didn't mean it personal but then it got heated a little bit
11 and Kevin wouldn't shut his mouth. This is one of the reasons
12 I said I didn't like him. He can irritate the shit out of
13 somebody. He irritated John. John picked up a rifle that
14 Kevin had behind his couch against the wall. He sent a bullet
15 into the chamber and he told Kevin if he keeps talking he's
16 going to shoot him. Kevin kept running his mouth and John
17 shot him.

18 Q What did he say after he shot him?

19 A He said it was an accident.

20 Q Did you leave McMahon's apartment that night?

21 A Me and John left right after that.

22 Q What did you say to Gotti Junior when he got out of the
23 car?

24 A I left. He's full of shit. You know he did it
25 purposely. I said, yeah I did it purposely. The kid doesn't

Alite - direct/ Burlingame

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1 shut his mouth. Now I got a problem. If he tells Johnny
2 Carneglia I got a problem. He'll tell my father. I'm going
3 to be dead.

4 Q Sorry?

5 A I'm sorry. He said -- not literally dead, but he's going
6 to be in trouble with his father.

7 Q Did you ever talk to McMahon about this incident after it
8 happened?

9 A Yeah.

10 Q Do you understand -- to your understanding did he believe
11 it was an accident?

12 MS. SHARKEY: Objection as to form.

13 THE COURT: I'll allow it.

14 A I didn't catch it. What did you say was the question?

15 Q Did he believe it was an accident when Junior shot him?

16 A Yeah, he believed it was an accident.

17 Q What happened to Kevin McMahon after he was shot?

18 A He went to the hospital.

19 Q Did anyone provide him with any instructions about what
20 to say when he got to the hospital?

21 A Yeah, me and John did.

22 Q Who did?

23 A Me and John.

24 We told him to say he got shot by some black kids.

25 We said he was going to, I think it was pizza, you said you

Alite - direct/ Burlingame

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1 were going to get pizza and say you got shot by some black
2 kids.

3 Q Why did you tell him that?

4 A So John wouldn't get in trouble.

5 Q Now, you testified that following your falling out with
6 John Gotti Junior 1993 the defendant became your main point of
7 contact in the Gambino family?

8 A That's correct.

9 Q Can you explain to the jury why the defendant became your
10 main point of contact even though you were officially on
11 record with John Gotti Junior?

12 A It was like a bad marriage. Me and John stopped seeing
13 each other. His friends, we liked each other, we hated each
14 other. He was my boss. I had to do what he said, but yet I
15 didn't respect him any more.

16 Q Why didn't you respect him any more?

17 A Because there was a couple of reasons.

18 You want me to tell you why?

19 Q Please.

20 A Bobbie Borriello was -- told John he was in trouble and
21 that he was going to get killed. He ended up getting killed.
22 After Bobby got killed John Gotti Junior bad mouthed him. He
23 was supposed to be his best friend, best man at his wedding,
24 my best friend, and he bad mouthed him like a piece of shit
25 because he had loanshark money he borrowed from Joey Scopo.

Alite - direct/ Burlingame

3359

1 At that time he was the boss of the Colombo family.

2 So when I seen the way John was treating his good
3 fried I said what's the difference with me. That was one
4 reason.

5 The next reason is Mark Ryder, goes to jail, gets
6 life. Doesn't rat out John Gotti Senior. His son gets
7 killed. I go looking for the guy that killed his son. John
8 pulls me off it because the mother had a couple words with a
9 police officer. Try to find her son. He called her -- excuse
10 my language, a douche bag and I'm saying to myself this is the
11 way he's going to treat guys, his best friends with him, doing
12 life bit for him, dying for him. I am starting to open my
13 eyes to the life a little bit.

14 And the last reason is I was fooling around with
15 sister Vicky Gotti and on the sneak, nobody knew, in the late
16 80s Vicky's husband Carmine came looking for me with five guys
17 to kill me. They pulled guns but they didn't have the balls
18 to do it. I asked for retaliation from Carmine. John denied
19 it.

20 Those reasons started getting me to push away from
21 -- I didn't trust him as much any more. I didn't believe in
22 the life. It was kind of like looking at a brochure when you
23 are a kid. He everything looks nice. You are going to
24 Paradise Island. You forgot to the read the small, print fine
25 print. The fine print tells you about the way all this bull

Alite - direct/ Burlingame

3360

1 shut, all our lies, our rules, our regulations everybody is
2 for themselves. So that changed things for me.

3 (Continued on next page)

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Alite - direct/Burlingame

3361

1 Q Did Gotti Junior start treating you differently?

2 A Yes.

3 Q How so?

4 A When I stopped staying with him?

5 Q As his power in the family increased did he start
6 treating you differently?

7 A Yes. He didn't watch the way he talked to me the same.
8 He would talk to me like he would try to talk to some of these
9 other guys. I didn't like it.

10 Q Prior to the time the defendant became your primary point
11 of contact with the Gambino family how often would you see
12 him?

13 A Once a week, twice a week maybe.

14 Q You testified that after he became your primary point of
15 contact you saw him approximately five times a week?

16 A That's correct.

17 Q How did it happen that he, of all the people in the
18 Gambino family, ended up as the guy that you were with?

19 A Me and John discussed who I'd be comfortable with. I
20 said I'd be comfortable with Charles because I respected him
21 because he's a killer. Some of these other guys are full of
22 shit and I wouldn't have no respect for them.

23 Q You testified that you last saw the defendant 2002 in
24 Fort Dix; is that correct?

25 A That's correct.

Alite - direct/Burlingame

3362

1 Q And that you were with him for the ten years
2 approximately from when you had the falling out with Gotti
3 Junior in 1993 until that time?

4 A Yeah, that's correct.

5 Q During those ten years did you become close with him?

6 A Yeah, pretty close.

7 Q Did you drink with him?

8 A Yeah.

9 Q What did he like to drink?

10 A Scotch whiskey.

11 Q Did you meet his mother?

12 A Yes.

13 Q Have you been to her house?

14 A Yes.

15 Q Where is it?

16 A Howard Beach.

17 Q Have you been to the defendant's apartment?

18 A Yes.

19 Q Has he been to your house?

20 A Yes.

21 Q Has he been to your wife's house?

22 A Yes.

23 Q When would he come by?

24 A He'd come by all the time socially, just to see how I was
25 doing. When my wife had cancer he would come by to see how

Alite - direct/Burlingame

3363

1 she was. When my son was born, he came by, dropped off a
2 basket from him and his brother.

3 When I was sick in Jersey he came by. When I was
4 sick and he just got straightened out they came by. When I
5 was going back to prison, they had a going away party for me
6 in Jersey, he came. Any kind of occasion, some weddings we
7 went together, you know.

8 Q When you went to the defendant's apartment would you see
9 anything unusual lying around?

10 A Besides weapons?

11 Q Explain about the weapons.

12 A Well, it ain't unusual for me because in our life there
13 is a lot of weapons around, but he had a lot of weapons
14 around. He had guns that he would make silencers, silencers
15 for the guns.

16 Q How do you make a silencer for a gun?

17 A He would try different things, cutting plastic bottles
18 off of soda bottles, 64-ounce bottles. He'd tape it. That
19 was one way. He'd put a rag in it, inside the bottle and tape
20 it. Different ways. He had some funny kind of chopping
21 butcher knife kind of thing he had out all the time that I
22 would say was kind of unusual.

23 Q Did you know him to have many knives?

24 A Yeah.

25 Q What kind of knives did he have?

Alite - direct/Burlingame

3364

1 A Switch blades, butcher knife.

2 Q Did it concern you at all that the defendant had weapons
3 lying around his apartment?

4 A Not per se. But when he was high a lot, drunk a lot, so
5 when you're in there and he's talking to you, he's waving the
6 gun past you. So you're kind of like bobbing and weaving just
7 in case the thing goes off by accident and he kills you.

8 Q Did you know the defendant to carry weapons on him?

9 A Yes.

10 Q What?

11 A Blackjack, switchblade.

12 Q Where did he carry the switchblade?

13 A In his waistband.

14 Q What did the defendant call knives?

15 A Poker.

16 Q Did the defendant have any physical problems that you are
17 aware of?

18 A He had emphysema, he always complained about his
19 breathing.

20 Q What did he say about his emphysema?

21 A That he's not like me, strong and working out. If he
22 gets a problem he's got to fix it in ten seconds. He's got to
23 poke somebody and twist it and gut them real quick, otherwise
24 if they grab him he's in trouble.

25 Q What did you understand the defendant to mean when he

Alite - direct/Burlingame

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1 said he's got to poke somebody and gut them real quick?

2 A That he's got to kill them real quick or he's going to
3 have a problem. He can't handle them physically.

4 Q What do you poke somebody with?

5 MS. SHARKEY: Objection.

6 THE COURT: I'll allow it.

7 A A knife.

8 Q Did the defendant ever talk to you about doing time in
9 prison?

10 A Yeah.

11 Q Did he ever tell you what he would do if he got a lengthy
12 prison sentence?

13 A Yeah. He said he'd check out.

14 Q What did you understand that to mean?

15 A He'd kill himself.

16 Q You testified you knew the defendant to be a drinker.
17 Was he frequently drunk?

18 A Yes.

19 Q What kind of a drunk was he?

20 A He mumbled and talked a lot.

21 Q What sorts of things would he talk about when he was
22 drunk?

23 A Killing, way to kill, how to kill, how fast to kill. I
24 mean, in our life that conversation really isn't abnormal.
25 It's like ball players or stockbrokers talking about selling

Alite - direct/Burlingame

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1 stock, this is what we talk about. So I didn't take it as
2 being abnormal. It was just a conversation that he spoke
3 about when he was drinking, how he was good at it.

4 Q Did he talk about anything else that he was good at?

5 A Not besides crime.

6 Q You testified earlier that the defendant told you that he
7 disposed of bodies.

8 A That's correct.

9 Q Did he talk to you about that when he was drunk?

10 A Yes.

11 Q Did he ever show you anything concerning the disposal of
12 bodies?

13 A A book.

14 Q What was the book about?

15 A Disposing of bodies, how to dismember.

16 Q What did he say about the book?

17 MS. SHARKEY: Objection.

18 THE COURT: I will allow it.

19 A If I want to read it, if I'm interested in it.

20 Q What did you say?

21 A I said no thanks.

22 Q Did he talk to you frequently about disposing of bodies?

23 A Yes.

24 Q Without mentioning the method that he used to dispose of
25 bodies, did he say anything about its effectiveness?

Alite - direct/Burlingame

3367

1 A Yeah. He loved it. He said he was like a doctor with it
2 now.

3 Q You testified that in addition to the DiBono murder the
4 defendant committed a number other murders. I'd like to start
5 with the court officer.

6 You testified the defendant told you he killed a
7 court officer. What did he tell you specifically?

8 A That he gutted him.

9 Q Did he talk about it on more than one occasion?

10 A A couple of times.

11 Q When would he normally talk about it?

12 A When he was high, drunk.

13 Q Did he express any remorse over killing the court
14 officer?

15 A No, the opposite.

16 Q What would he say?

17 A That all of us guys should kill a cop. Fuck them --
18 excuse my language -- all.

19 Q And when he said all of us guys, who did you understand
20 all of us guys to mean?

21 A Wiseguys, Gambino guys.

22 Q So he was saying all Gambino guys should have to kill
23 cops?

24 A Yeah.

25 Q Did you see a big difference between cops and court

Alite - direct/Burlingame

3368

1 officers?

2 A No. I still actually refer one or the other as the same.

3 Q Based on your experience, was that a common view in the
4 Gambino family?

5 A Yeah. You have a badge you're a cop. It doesn't matter
6 what you're doing with it.

7 Q You said he told you that he gutted him. What did you
8 understand that to mean?

9 A He showed me what he meant by gutting. I said it before.
10 It's taking a knife, he says, he's jamming it in, twisting it
11 and pulling it up.

12 Q How did a conversation like that start, talking about
13 stabbing somebody?

14 A Just talking. It's like stockbrokers talking. That's the
15 only way I can put it, or athletes talking about sports with
16 each other. This is what we're talking about, what's our next
17 murder, what's our next score, what's our next way to make
18 money. That's our conversation, that's normal.

19 Q Under Gambino family rules was the defendant supposed to
20 talk to you about other crimes he committed?

21 A There's no real rule about it, but, no, no one does.

22 Q Did you think it was unusual that he would talk to you
23 about murders he committed?

24 A No, because we all boast. We brag and we try to, you
25 know, talk a lot of shit so other people know about it, the

Alite - direct/Burlingame

3369

1 more people know the more dangerous they know, the more
2 capable you are, the more money you make, the more -- it's
3 easy to intimidate people, so, no.

4 Q Did you ever talk to people about crimes you committed?

5 A Yes.

6 Q Why would you do that?

7 A Just for those reasons. I'm out on the street making
8 money every day. My fast is my wallet. I go out and if
9 somebody is afraid of me, when they see me they pay me. It
10 stops me from having to hurt every single guy everywhere you
11 go.

12 So I would bullshit and brag. Maybe I did a score,
13 an armed robbery in Miami, I might tell you for the
14 Lauderdale. I change slight facts. I'm not going to tell you
15 everything just in case somebody is up here like I am right
16 now.

17 Q So you change little details?

18 A Always.

19 Q You testified that John Gotti Junior also told you that
20 the defendant killed a court officer. What did he tell you,
21 specifically?

22 A That Charles is nuts. He killed a cop; that he's on the
23 run from it. He was on the lam for it, that's why he doesn't
24 come around much, and that he's hard to control. Everybody
25 likes him, but you can't control him.

Alite - direct/Burlingame

3370

1 Q Did he tell you what his understanding was as to why the
2 defendant had killed a court officer?

3 MS. SHARKEY: Objection.

4 THE COURT: I will allow it.

5 A Yeah. Something about him being a witness to something,
6 I don't know.

7 Q Did he say how the defendant killed the court officer?

8 A No. I thought he stabbed him. I don't know. I didn't
9 ask.

10 Q Junior never told you?

11 A No.

12 Q Let's talk about the Sal Puma murder. Who was Sal Puma?

13 A He was an associate of Charles Carneglia.

14 Q Did you know him personally?

15 A No.

16 Q How do you know that he was an associate under the
17 defendant?

18 A The defendant told me, John Gotti told me, Junior, Johnny
19 Boy Ruggiero told me.

20 Q You testified earlier that the defendant told you he
21 killed Sal Puma. Do you remember where you were when he told
22 you?

23 A No, not offhand. I don't remember where.

24 Q Do you remember when he told you?

25 A Yeah. It was late eighties.

Alite - direct/Burlingame

3371

1 Q Was anyone else present?

2 A I don't recall if someone else was present.

3 Q Do you remember how the topic came up?

4 A Yeah. We were talking about Andrew Curro and Peter
5 Zuccaro, Bud, and some of their friends, all these guys back
6 in the eighties, and we were comparing them to me, John Junior
7 and some other guys.

8 The subject came up, I don't know how. But we were
9 talking about the past and he brought up Sal and he said that
10 -- he said he liked him, but he had to go, it had to happen.

11 Q What did you understand that to mean when he told you
12 that it had to happen?

13 A That he killed him.

14 Q When did the Sal Puma murder take place?

15 A '83.

16 Q How do you remember that?

17 A I just got back from California. Kevin Bonner was
18 hanging out with Sal Puma right before it happened.

19 Q That was the -- right after the year you spent in
20 California?

21 A That's correct.

22 Q Did you ever talk to anyone who was scared about the Sal
23 Puma murder?

24 A Yeah, Frankie Perrone and Vinny Furci.

25 Q Who was Frankie Perrone?

Alite - direct/Burlingame

3372

1 A He's an associate of John Gotti Junior, and his father
2 worked as a bookmaker, works for the Genovese family, Fritzie
3 in particular, a captain in the Genovese family.

4 Q Who was Vinny Furci?

5 A An associate with John Gotti Junior.

6 Q When did you talk to them?

7 A It was at Frankie Perrone's house. Sal Puma used to stay
8 over there all the time and so did Vinnie Furci.

9 Q When, when did you talk to him?

10 A Right after it happened, '84.

11 Q '84? Our testified earlier '83?

12 MS. SHARKEY: Objection. Asked. Leading.

13 THE COURT: You may respond.

14 A Can I answer?

15 THE COURT: Yes.

16 A I said '83, I said he was murdered. '84 is when I
17 started talking to Frankie Perrone about it.

18 Q Do you remember you testified that it was right after it
19 happened?

20 MS. SHARKEY: Objection.

21 THE COURT: You may answer.

22 A I talked to Charles in the late eighties. I talked to
23 Frankie Perrone, as far as I remember, right after it
24 happened, so --

25 Q You testified that Perrone and Furci were associates of

Alite - direct/Burlingame

3373

1 John Gotti Junior. When you had this conversation you were
2 also an associate of Junior's, correct?

3 A That's correct.

4 Q Did they know about your relationship with Junior?

5 A Yes.

6 Q You testified you talked to them at Frankie's house?

7 A Say that again.

8 Q Where did you say this conversation took place?

9 A Frankie Perrone's house.

10 Q Were they still scared when you spoke to them?

11 A Yes.

12 Q Did you learn why they were scared during the course of
13 the conversation?

14 A Yes.

15 MS. SHARKEY: Objection.

16 Q What was your understanding as to why they were scared?

17 THE COURT: You may answer.

18 A That Charles would kill them too if he thought they were
19 witnesses to whatever he did.

20 Q If you could explain that a little bit further.

21 A Can you ask me that question again.

22 Q Sure. What was your understandings as to why Furci and
23 Perrone were scared?

24 A Because they witnessed the murder of Sal Puma. They were
25 worried that if Charles was aware that they were witness to it

Alite - direct/Burlingame

3374

1 that he would come after them also.

2 Q Are you aware of an armored car robbery at JFK Airport in
3 which a guard was killed?

4 A Yes.

5 Q How do you know about it?

6 A I spoke to Kevin McMahon about it. I spoke to Charles
7 and I spoke to Bobby Borriello before it happened.

8 Q On the occasion that the defendant spoke to you about the
9 incident at JFK in which the guard was killed, how did the
10 topic come up?

11 A I was trying to give him money from a score I did at
12 Sears. I was trying to give him 2,500, his end from the
13 robbery at Sears in New Jersey. He wouldn't accept the money
14 from Kevin McMahon.

15 Kevin gave it back to me. I tried to give it to
16 Charles and he kept telling me, I don't need it. I says, Take
17 it, I know you need it. He says, No, I still got the 35
18 buried from the Kennedy heist.

19 Q What did you understand that to mean when he said he had
20 the 35 buried from the Kennedy heist?

21 A From the armored car they robbed at Kennedy Airport. I
22 understood that he still buried the money, he didn't spend it.
23 He's keeping it underground somewhere.

24 Q How soon after the Kennedy Airport robbery did this
25 conversation take place?

Alite - direct/Burlingame

3375

1 A Three years maybe.

2 Q Did the defendant say why he had buried the money?

3 A No, he didn't.

4 Q Based on your experience in organized crime did you have
5 an understanding as to why he kept it buried?

6 A Yes.

7 MR. FARBER: Objection.

8 THE COURT: You may answer.

9 A Yes. I figured it was marked money or because of what
10 happened with the driver. One of the guys died, I don't know
11 which one -- I was going to say driver -- but whatever one of
12 them died, he didn't want to spend the money because it was
13 probably consecutive serial numbers or something.

14 Q Was it odd for the defendant to tell you something like
15 this, that he had money from a robbery where a man was
16 murdered buried in the yard?

17 A Not really, because he's getting high a lot, he's
18 drinking, getting high and talking a lot. So you know -- no,
19 I wouldn't say it was abnormal, no.

20 Q Who was Zuccaro?

21 A He was an associate of Charles.

22 Q Do you know if he was ever reporting to anyone else in
23 the Gambino family?

24 A Yeah. He was reporting to Iggy.

25 Q Do you know Iggy's last name?

Alite - direct/Burlingame

3376

1 A No.

2 Q Did you ever have a conversation with Zuccaro about
3 armored car robberies that involved the defendant?

4 A Yes.

5 Q When did this conversation take place?

6 A About '94, '95 by Peter's junkyard.

7 Q What was Zuccaro's demeanor during the conversation?

8 A Excuse me?

9 Q What was he like during the conversation?

10 A He was angry.

11 Q Did the content of the conversation let you know what he
12 was angry about at that time?

13 A Yeah.

14 Q What did he tell you about why he was upset?

15 A Because Charles was breaking his balls and says he owes
16 him money and he's going back and forth with him, arguing with
17 him, and he said he doesn't owe Charles any money, but if the
18 guy kept -- stopped getting high and kept straight for a
19 while, he could have got off on the armored car. Peter was
20 going to do it with him and he backed out because he was
21 always high and he didn't trust him.

22 Q Did Bobby Borriello ever tell you about wanting to get
23 into the drug business with you?

24 A Yes.

25 Q When did that conversation take place?

Alite - direct/Burlingame

3377

1 A About 1990, the fall.

2 Q Where?

3 A By the club.

4 Q Anyone else present?

5 A No, just me and Bobby.

6 Q How did the topic come up?

7 A It came up a couple of times. That wasn't the first
8 time. But Bobby was desperate for money. He borrowed about a
9 half a million dollars off of Joey Scopo.

10 Q Who is Joey Scopo?

11 A He was the boss of the Colombo family. He was partners
12 with Genie Gotti in the loan-shark business.

13 Q So he was desperate for money. How did that lead to the
14 conversation about him wanting to get into your drug business?

15 A Because he was constantly either baby-sitting -- prior to
16 that John Gotti Senior, he was always his driver, his man so
17 he couldn't earn, and after that he was with John Gotti Junior
18 so he didn't have time to earn.

19 He built up a ton of debt, so he needed a way to
20 make money, big money and get out of debt. So if he's
21 24 hours occupied with these device, he had needs somebody
22 like myself, somebody that could cut him in somewhere to do
23 something quick for a big score.

24 Q In that conversation did he talk to you about any other
25 possible sources of income?

Alite - direct/Burlingame

3378

1 A Yeah, he told me he was going to do a heist with Charles.

2 Q When was this?

3 A The fall of 1990.

4 Q In addition to the DiBono murder that you testified
5 about, did you take part in any other murders while you were
6 the Gambino family?

7 A Yes.

8 Q How many?

9 A Five I believe.

10 Q Did you personally kill the victim in each of those
11 murders?

12 A No.

13 Q How many people did you personally kill?

14 A Georgie Grasso.

15 Q Who was Georgie Grasso?

16 A An associate of John Gotti Junior.

17 Q Were you ordered to kill him?

18 A Yes.

19 Q By who?

20 A John Gotti Junior.

21 Q Why?

22 A He was running his mouth, saying that he was dealing coke
23 for the Gottis, which he was warned not -- to stop doing it,
24 but he kept doing it anyway.

25 After that him and his brother-in-law Johnny Gebert

Alite - direct/Burlingame

3379

1 took a shot at me, tried to shoot me. I went to John Gotti
2 Junior for permission to kill him for both those reasons.

3 Q You said he was dealing drugs and using the Gotti name.
4 Weren't you dealing drugs as a member of the Gambino family?

5 A Yes.

6 Q What's the difference?

7 A Because I don't use anybody else's name. It's on my
8 shoulders. Nobody else's name is to be mentioned.

9 Q I thought you testified that the Gambino family was
10 standing behind you?

11 A They are, but they're standing in the closet.

12 Q He was up front about it that he was with the Gottis?

13 A He was on the balcony screaming it out to everybody.

14 Q How did you kill Georgie Grasso?

15 A I shot him two or three times in the head.

16 Q How far away from him where were you when you shot him in
17 the head?

18 A I was sitting in the back seat of the car, he was in the
19 front seat.

20 Q How did you get him into the front of the car?

21 A We set him up. We were at a local bar in our
22 neighborhood called The Lighthouse -- Light Horse, and I had
23 about five guys with me, they were all drinking shots of
24 vodka, I was drinking shots of water. And I told him we were
25 going to go to another place when this place closed down.

Alite - direct/Burlingame

3380

1 I told the bartender close the place. He closed it.
2 We went out like we were going somewhere else. We got him in
3 the car, we were driving and I shot him in the head.

4 Q Two or 3 times?

5 A That's correct.

6 Q When did this take place?

7 A 1988, December.

8 Q How old were you at the time?

9 A About 25.

10 Q How old was Georgie Grasso?

11 A About 24, I think. Maybe 25 still.

12 Q Were you ever prosecuted for this murder prior to your
13 cooperation?

14 A No, I was not.

15 Q How did the government know about your role in this
16 murder?

17 A I told them about it.

18 Q Why did you tell the government you shot Georgie Grasso
19 in the head?

20 A Because under my cooperation agreement I got to tell the
21 truth and tell about everything.

22 Q Did you plead guilty to this murder?

23 A Yes.

24 Q How much time are you facing for it?

25 A Life.

Alite - direct/Burlingame

3381

1 Q What are the other murders you participated in?

2 A Bruise Gotterup. We shot up --

3 Q If you could name the victims first and then we'll go
4 through them.

5 A Bruise Gotterup, Frankie Geeki. Louie DiBono and Johnny
6 Gebert.

7 Q Who was Bruce Gotterup?

8 A He was a street guy that was trying to shake down one of
9 the Gambino bars.

10 Q When you say shakedown one of the Gambino bars, what do
11 you mean?

12 A The bar was with us, the Gambino family. He was on
13 record with us.

14 Q What did he try and do?

15 A He went there, machine gunned the place, demanded 500 a
16 week from the owner.

17 Q That earned him a death sentence?

18 A Yes.

19 Q Who actually killed him?

20 A I passed the order over to Johnny Burke and his
21 brother-in-law.

22 Q When you say you passed the order over, who did the order
23 come from?

24 A John Gotti Junior.

25 Q What role did you play in that murder, aside from passing

Alite - direct/Burlingame

3382

1 along the order?

2 A I set Bruce up. I went and met the owner. I told the
3 owner of the bar to pay him the 500 a week for the next 2 or
4 3 weeks and then I'll take care of it.

5 I told Johnny Burke to get friendly with him, go
6 drinking with him, get high with him. When you get him in
7 your company take him down to the beach and kill him.

8 Q When did that murder take place?

9 A About 1992.

10 Q Were you ever prosecuted for it prior to your
11 cooperation?

12 A No.

13 Q How did the government know about your role in it?

14 A I told them about it.

15 Q Why?

16 A Truthful under my cooperation agreement.

17 Q Did you plead guilty to this murder?

18 A Yes.

19 Q How much time are you facing for it?

20 A Life.

21 Q Who is Frankie Geeki?

22 A He was a boyfriend of, an associate of the Gambino
23 family, a boyfriend of Francine Ruggiano, Fat Andy's daughter.

24 Q So she would be Albert Ruggiano and Anthony Ruggiano's
25 sister?

Alite - direct/Burlingame

3383

1 A Yes.

2 Q You participated in his murder?

3 A Yes.

4 Q Why was he killed?

5 A He hit Francine and then the mother tried to step in and
6 he cracked the mother too. After he did that, he went to a
7 bar called Butterfingers and he ran into JoJo Corozzo, who was
8 also a made member, and threatened JoJo with a machine gun.

9 JoJo called me and Ronnie One Arm up, told us to
10 look for him, hunt him down and kill him.

11 Q Did you look for him?

12 A Yeah, we looked for him that night in some after hours,
13 couldn't find him. The next day I gave -- told John Gotti
14 Junior about it, got the order, the okay to keep the hit on
15 him.

16 Q Was he eventually killed?

17 A Yes.

18 Q Who actually killed him?

19 A Anthony Ruggiano and Skinny Dom.

20 (Continued next page)

21

22

23

24

25

Alite - direct/ Burlingame

3384

1 DIRECT EXAMINATION (Cont'd)

2 BY MR. BURLINGAME:

3 Q When did that takes place?

4 A Late 90s I believe.

5 Q Late 1990?

6 A Excuse me. Early mid 90s.

7 Q You mentioned Jo-Jo Corozzo, who is he?

8 A He was consigliere for the Bonanno family.

9 Q Did you have any members in the Gambino family?

10 A Yes, a brother.

11 Q What is his brother's name?

12 A Nicky Corozzo.

13 Q Showing you Government Exhibit 2 F, who is that?

14 A Jo-Jo Corozzo.

15 Q You said he became a consigliere of the Gambino family?

16 A Yes.

17 Q 2G, who is that?

18 A Nicky Corozzo.

19 Q What is the highest position he attained in the Gambino
20 family, acting boss?

21 A Yes.

22 Q Jo-Jo Corozzo same faction of the Gambino family as the
23 Gotti's?

24 A Yes, same faction.

25 Q Were you ever prosecuted for the murder of Frankie Dekey

Alite - direct/ Burlingame

3385

1 (ph) prior to your cooperation?

2 A No, I wasn't.

3 Q How did the government know about your role in it?

4 A I told them about it.

5 Q Why?

6 A Under my cooperation agreement I had to be truthful.

7 Q Plead guilty to this murder?

8 A Yes.

9 Q How much time are you facing for it?

10 A Life.

11 Q You said you also participated in the murder of Johnny
12 Devert (ph), is this the same Johnny Devert who was your best
13 friend in your late teens?

14 A Yes.

15 Q The one who introduced you to John Gotti Junior?

16 A That's correct.

17 Q Who actually killed Johnny Devert (ph)?

18 A My cousin Patsy Adriano (ph) was the shooter and Dave
19 Cartino (ph).

20 Q And where were you when the shooting happened?

21 A Prison.

22 Q What role did you play in the murder?

23 A I ordered it.

24 Q Who else took part in the murder conspiracy?

25 A Peter Zuccaro, Steven Zuccaro, Johnny Burke and Michael

Alite - direct/ Burlingame

3386

1 Malone.

2 Q Showing you Government Exhibit 2II, who is that?

3 A Johnny Burke.

4 Q What is the highest position he attained in the Gambino
5 family?

6 A Associate.

7 Q Showing you Government Exhibit 2 triple U, who is that?

8 A I don't know off hand.

9 Q You said Johnny Burke was an associate?

10 A Yeah.

11 Q Who was in charge of the plan to kill Frankie Dekey (ph)
12 that you ordered? I'm sorry. John Devert.

13 A Who was in charge of the plan?

14 Q We were talking about the John Devert (ph) murder you
15 ordered it?

16 A Peter Zuccaro.

17 Q He was in charge of carrying out the murder?

18 A Yes.

19 Q When did this murder take place?

20 A 1996. I believe in about March '96, April '96, May of
21 '96. Something like that.

22 Q Were you ever prosecuted for this murder prior to your
23 prosecution?

24 A No.

25 Q Did the government know about your role in it?

Alite - direct/ Burlingame

3387

1 A I told them about it.

2 Q Why?

3 A Truthful under the cooperation agreement.

4 Q Plead guilty to this murder?

5 A Yes.

6 Q How much time are you facing for it?

7 A Life.

8 Q In addition to the murders, among the course of other
9 crimes you said you committed was jury tampering. What juries
10 did you tamper with?

11 A John Carneglia and Genie Gotti's trial and John Gotti's
12 trial -- Senior.

13 Q How many trials did John Gotti Senior have?

14 A Two.

15 Q How many trials did John Carneglia and Gene Gotti have?

16 A They had three, but we tampered two.

17 Q How did you get involved in jury tampering?

18 A John Gotti Junior.

19 Q He asked you to get involved?

20 A Yes.

21 Q What did he tell you to do?

22 A To meet him. We drove down to the courthouse and for me
23 to try to locate jurors as they come out and identify their
24 clothing and what kind of car they get into. Get as close as
25 I can to get without them seeing that I'm looking at them and

Alite - direct/ Burlingame

3388

1 radio to other guys, telling them who they are driving what,
2 they are wearing, if they are coming in that direction and
3 from that point they would pick them up.

4 Q Did you do as you were instructed?

5 A Yes.

6 Q Did you know what was done with the information you
7 provided?

8 A No.

9 Q Were you ever involved in approaching jurors?

10 A No.

11 Q Besides from John Gotti Junior, who else was engaged in
12 jury tampering with you?

13 A Michael McLaughlin, fat Mark Caputo, Eddy Lino, Kevin
14 McMahon, John Gotti Junior, Sally.

15 Q Who is Sally?

16 A Eddy Lino's brother-in-law. Kalia (ph), I don't even
17 know his last name either.

18 Q You said Kevin McMahon also tampered with juries, do you
19 know which trials he tampered with?

20 A I think all four that I tampered with.

21 Q Did you also participate in the scheme to obstruct the
22 investigation of this jury tampering?

23 A Yes.

24 Q What did you do?

25 A I met with John Gotti Junior Carmine Carnello (ph), and

Alite - direct/ Burlingame

3389

1 Michael Scars at the Bergen, Hunt & Fish Club, and we
2 discussed Carmine gets immunity from the government and once
3 he does that, to confess to everything that happened on the
4 tampering.

5 Q Why would he do that?

6 A Because he got immunity. Nothing could happen to him
7 after the immunity.

8 Q So he would take all the blame on himself.

9 A Yes.

10 Q Did that happen?

11 A Yes.

12 Q When did that take place?

13 A Early 90s.

14 Q Let's talk about some more crimes you committed with the
15 defendant.

16 After the defendant became your main point of
17 contact with the Gambino family, what sorts of crimes did you
18 commit with him other than the DiBono murder which you already
19 talked about?

20 A Drug dealing, bookmaking, armed robberies, assaults,
21 shooting.

22 Q Did you take part in murder conspiracies?

23 A Yes.

24 Q Extortions?

25 A Yes.

Alite - direct/ Burlingame

3390

1 Q Police corruption?

2 A Yes.

3 Q Start with murder conspiracy, did the defendant ever ask
4 you to take part in a conspiracy to kill Peter Zuccaro?

5 A Yes, he did.

6 Q Was there a dispute between the two of you that you were
7 aware of?

8 A Yes.

9 Q What was the dispute about?

10 A Charles claimed that Peter Zuccaro owed him and his
11 brother drug money from the marijuana proceeds.

12 Q How do you know about this?

13 A Charles discussed it with me, and Peter Zuccaro discussed
14 the drug proceeds with him.

15 Q Do you know if the defendant claimed that Zuccaro owed
16 him money -- just to him or anyone else as well?

17 A Well, his brother also, to John.

18 Q Did you know if the defendant ever tried to collect the
19 money from Mr. Zuccaro?

20 A Yes.

21 Q Over what period of time was the defendant trying to
22 collect this marijuana money?

23 A Couple of years period.

24 Q When?

25 A Early 90s.

Alite - direct/ Burlingame

3391

1 Q Do you know how much money he was trying to collect?

2 A No, I don't.

3 Q Do you know if he threatened Peter Zuccaro to collect the
4 money?

5 A Yes, he did.

6 Q You testified the defendant asked you to take part in a
7 conspiracy to kill Zuccaro, when did he ask you to do that?

8 A I believe it was about '95.

9 Q What exactly did he ask you to do?

10 A He asked him to lure him into my car if I could meet him
11 down the block from where Kevin lived.

12 Q Did you do what the defendant asked?

13 A No.

14 Q What did you do?

15 A I told him I will do what he asked. I said I will try to
16 do it. I said Peter is suspicious. Doesn't trust anybody and
17 I went to Peter and I told him, you know, you better be
18 careful. Charles wants to hit you.

19 Q You went and told Peter Zuccaro that the defendant was
20 trying to kill him?

21 A That's correct.

22 Q Why did you do that?

23 A I agreed with Peter we'd keep an alliance with each
24 other.

25 Q What sort of alliance?

Alite - direct/ Burlingame

3392

1 A That we would make sure that we watch each other's back,
2 you know. We'll work together that way.

3 Q And did you and Zuccaro stick to that agreement?

4 A I did, yeah.

5 Q As far as you know, did he?

6 A As far as I know he did too, yeah.

7 Q You testified earlier that Joe Panzarella Junior was a
8 Gambino family associate under the defendant. Did you ever
9 learn that Panzarella Junior had been shot?

10 A Yes, I did.

11 Q How did you learn about it?

12 A Charles called my house in Cherry Hill.

13 Q Approximately when was this?

14 A Approximately '94.

15 Q What did he tell you?

16 A He told me that Cliffy, a kid around Ronny one arm, he
17 said, kid around Ronny one arm shot Joe Panzarella four or
18 five times, I believe, with a small calibre gun.

19 Q Where was Joe Panzarella when the defendant called you?

20 A I believe he was in Charles' apartment. I thought him,
21 Kevin McMahon and Panzarella were all together in Charles'
22 apartment.

23 Q And what, if anything, did the defendant ask you to do
24 during that conversation?

25 A He was drunk. He was babbling for me to call Ronnie One

Alite - direct/ Burlingame

3393

1 Arm and tell him that he was going to kill him and Cliffy.

2 Q Did the defendant asked you to call Ronnie One Arm and
3 tell Ronnie One Arm that the defendant was going to kill
4 Ronnie One Arm and Cliffy?

5 A Yeah.

6 Q Who is Ronnie One Arm?

7 A He's a skipper with the Gambino family.

8 Q Do you know the last name?

9 A Trucchio.

10 Q I am showing's Government Exhibit 2 triple Q, who is
11 that?

12 A That's Ronnie.

13 Q What is the highest position that he obtained in the
14 Gambino family?

15 A Captain.

16 Q Now, what was your understanding exactly as to why the
17 defendant wanted you to tell Trucchio that he wanted to kill
18 Trucchio and Cliffy?

19 A Because I took it as he didn't literally mean he was
20 going to kill Ronnie One Arm. He meant to let Ronnie know how
21 mad he was that way by coming across that way but he didn't
22 literally mean he was going to kill Cliffy, that is, he didn't
23 mean it.

24 Q So what was he actually asking Ronnie Trucchio for?

25 MS. SHARKEY: Objection.

Alite - direct/ Burlingame

3394

1 THE COURT: I am allow it.

2 A To step back and hand Cliffy over to him.

3 Q And when you say hand Cliffy over to him, what do you
4 mean?

5 A Walk him in so he can kill him.

6 Q Why didn't the defendant just call Trucchio himself?

7 A He didn't have his number. They weren't friendly like
8 that.

9 Q Did you call Trucchio?

10 A Yeah, I did.

11 Q What happened?

12 A Ronnie was scared of Charles. Called him a nut and said
13 you got to straighten this out for me.

14 Q What did you do?

15 A I told him the next day I'm going to the neighborhood and
16 see Charles, and try to straighten it out.

17 Q Did you?

18 A I talked to him. Charles didn't want to hear it. He said
19 he wanted Cliffy and that's that.

20 Q What eventually happened?

21 A Charles eventually went to Aldo's and met Ronnie One Arm
22 a couple of weeks later, and shook hands, and forgot about it.

23 Q So he never got permission to kill Cliffy from Trucchio?

24 A No.

25 Q He never killed Cliffy?

Alite - direct/ Burlingame

3395

1 A No.

2 Q Did there ever come a time when you and the defendant
3 paid off a court officer?

4 A Yes.

5 Q Why?

6 A I owned an after hours in Jamaica, South Ozone Park, and
7 I sent my brother-in-law Pat DePippa and Michael Finnerty
8 there to collect my weekend money.

9 Q You say, "weekend money" what does that mean?

10 A The proceeds from the after hours, the proceeds from the
11 drug business, and the proceeds from the Joker-Polka machines.

12 Q So who did you send there?

13 A Pat DiPippa and Michael Finnerty.

14 Q Okay. What happened?

15 A They got into a fight with a court officer in there and
16 Pat DiPippa shot him.

17 Q And what was Pat DiPippa's affiliation with the Gambino
18 family?

19 A An associate, John Gotti Junior and myself.

20 Q So why did you personally decide to pay off the court
21 officer?

22 A Because my cousin Nicky was my partner in the after
23 hours. It was my place. The guy that did the shooting in my
24 place was my brother-in-law Pat DiPippa, so I decided on
25 helping them both out, so they wouldn't get arrested and

Alite - direct/ Burlingame

3396

1 charged.

2 Q Did you have an understanding as to why the defendant
3 paid off the court officer?

4 A Yeah. Michael Finnerty was around Johnny Carneglia,
5 Charles' brother, and when John went away Charles was
6 servicing him.

7 Q What does that mean: Service somebody?

8 A He was under Charles basically after that.

9 Q How much money was the court officer supposed to get?

10 A Sixty thousand.

11 Q Did the court officer help Finnerty and DiPippa avoid
12 getting charged for the shooting?

13 A Yeah, he didn't identify them in a lineup.

14 Q There was a lineup and he pretended he couldn't identify
15 them?

16 A That's correct.

17 Q Who was in charge of handing over the money to the court
18 officer?

19 A I was.

20 Q Did you give it to anyone else to give it to the court
21 officer?

22 A Yes.

23 Q Who?

24 A My cousin Nicky Pascual.

25 Q Is that the guy you testified ran the after hours?

Alite - direct/ Burlingame

3397

1 A Yeah.

2 Q Years later did the defendant tell you anything about
3 Nicky Pascual?

4 A Yes. He said that he want to see John Juior Gotti about
5 a dispute, that the court officer never got the 60,000 and
6 that he was sent over from the west side Genovese family from
7 a skipper there named Rossi.

8 Q And had you and the defendant given him the money?

9 A We gave it to my cousin and Charles claimed that he gave
10 my cousin 15,000.

11 Q So your cousin was supposed to have handed over the money
12 to the court officer and now he was claiming to the Genovese
13 family he had never gotten the money.

14 A You want me to explain it a little bit better than that
15 to everybody?

16 When this happened the court officer lived next door
17 to my cousin. I told my couisin I don't care what you give
18 this court officer. Make sure he doesn't testify. My cousin
19 owed 30,000 to me. He said I'm going to give you 60,000. I
20 don't care if he gets one penny or 60,000. The court officer
21 isn't to identify anybody. That was the agreement. Obviously
22 my cousin is a screw-up, and he had drug problem, money
23 problems, gambling problems. He probably never gave a dime to
24 the court officer. He made a complaint into to his people he
25 was starting to work for on the west side, and they probably

Alite - direct/ Burlingame

3398

1 thought they can get an end so they jump in figuring they will
2 get a percentage of the 60,000 or they won't get involved. Now
3 it goes to Nicky opened the Pan Dora's box. Gets caught in a
4 lie, and he wants -- he's asking for money that doesn't exist
5 any more. He already got it but he doesn't know how to back
6 peddle probably.

7 Q So what happened after the defendant told you about this?

8 A He said he had a conversation with John Junior. John
9 Junior's hot that this kid's coming around saying we owe
10 money. It doesn't make our crew look good and he was calling
11 Charles Carnegie Charlie. Charles doesn't like being called
12 Charlie. He kept calling him Charlie. Charles told me are you
13 going to go see this kid, take care of it. I said yeah. I
14 went to Kevin. At that time we were at Kevin's garage. I was
15 going to go home. Charles said where are you going. I said I
16 need a gun. He says I got a gun for you. He gave me a gun.
17 Took the gun, and he said you're going to shoot this kid,
18 aren't you? I said, no. I'm just going to pistol whip him.

19 Q What does it mean to pistol whip somebody?

20 A Crack him across the head a couple of times with the gun.
21 It was a .9 millimeter.

22 Q So did you go to see Nicky Pascual?

23 A Yeah, I went to see him.

24 Q What happened?

25 A He was upstairs in his house with his wife. I didn't

Alite - direct/ Burlingame

3399

1 like the way he was speaking to me. I told him come
2 downstairs for a second. He came downstairs. We got a couple
3 words. My cousin Patsy Andriano (ph) dropped me off. He was
4 in front of the house, and I slapped him off the head with
5 the gun once or twice, and the gun dropped. He went to pick up
6 the gun. I told him stop from picking up the gun. He wouldn't
7 stop. I picked up the gun. I shot him three or four times.

8 Q Where did you shoot him?

9 A In the thigh, in the leg and in the ass.

10 Q What happened to his leg?

11 A He lost his leg.

12 Q After you shot Nicky Pascual, what did you do?

13 A I wen back to Kevin's garage to see Charles. Told him
14 what happened.

15 Q What did he say?

16 A He laughed. He goes I guess he ain't going to ask for
17 the money any more.

18 Q What happened to the gun?

19 A I'm not sure. I don't know if they took it, Charles an
20 Kevin, or if my cousin took it. I'm not sure. Somebody took
21 it to dispose of it.

22 Q Who is Louie Ariccio (ph)?

23 A He is an associate of the Genovese family.

24 Q Did you ever assault him?

25 A Yes.

Alite - direct/ Burlingame

3400

1 Q Where?

2 A In prison.

3 Q Where, when?

4 A 1996 when I went to prison.

5 Q Why did you assault him?

6 A Charles was friends with this guy Bobby -- Bobby, I can't
7 remember his last name. He was friends with this guy Bobby
8 that owned the Bay Clubs around Lucchese people, and his son
9 was having a problem. His son was also in jail with me also.
10 His name was Bobby also and he asked me to hurt him. The kid
11 was bothering Bobby so --

12 Q Who asked you to hurt who?

13 A Charles asked me to hurt Louie Ariccio (ph).

14 Q Because this guy's -- Bobby, the father asked Charles?

15 A Right. Correct.

16 Q Did he tell you specifically what to do to the guy?

17 A Yeah, put him in the hospital.

18 Q Did you put him in the hospital?

19 A No, I tried. I beat him up a little bit and the guards
20 broke it up.

21 Q Would is Mitch Saunders.

22 A He's tow truck driver that was around the Lucchese
23 people.

24 Q Did you ever assault him?

25 A Yes.

Alite - direct/ Burlingame

3401

1 Q Where?

2 A 101 First Avenue 84th Street.

3 Q When?

4 A Early 90s.

5 Q How did you assault him?

6 A I called him up. Told him I had a flat tire. You're in
7 the tow trucking business. He showed up. He pulled up with
8 his girlfriend in the tow truck and he realized that that
9 wasn't uneven, so he knew it wasn't a flat. He tried to take
10 off. I jumped on the side of his is truck and I started
11 batting him with the blackjack.

12 Q Why did you assault Mitch Saunders?

13 A His girlfriend's family asked for us to beat him up. Put
14 him in the hospital.

15 Q Who did his girlfriend's family ask to beat up? Who did
16 his girlfriend's family talk to?

17 A Vic Carneglia.

18 Q What did they ask for?

19 A For me to put him in the hospital.

20 Q Why?

21 A Because he raped his girlfriend's sister.

22 Q Who told you to assault Mitch Saunders?

23 A Charles.

24 Q Did the defendant specifically ask you to use a blackjack
25 on him?

A1ite - direct/ Burlingame

3402

1 A Yes.

2 Q Did Saunders have to go to the hospital?

3 A Yes.

4 Q What did this do for your relationship with the
5 defendant?

6 A I had a good relationship with the defendant and his
7 brother. I never said no anytime they asked me to do
8 anything. So just made it better.

9 Q You also testified that you and the defendant
10 participated in illegal gambling, what did you do?

11 A I had a bookmaking office and he had a guy Philly Tackles
12 that was a small time bookie.

13 Q This is the same Philly Tackles that owned the bait and
14 tackle shop?

15 MS. SHARKEY: Objection; leading.

16 THE COURT: I'll allow it.

17 Q This is the same guy that owned the bait and tackle shop,
18 you testified about earlier?

19 A That is correct.

20 Q What happened?

21 A Charles told me the guy was around him. He didn't have a
22 big bank roll. He wanted the guy to call his sports action
23 for me, so he hedges work over to my office.

24 Q When did you run a sports book business?

25 A In the early 80s on to '98, about.

Alite - direct/ Burlingame

3403

1 Q Did you take bets from Philly tackles?

2 A Yes.

3 Q Did you have an understanding as to why the defendant
4 told Philly tackles to run the sports business through you?

5 MS. SHARKEY: Objection to form.

6 THE COURT: You may answer.

7 A Because it would give Charles an idea of how much Philly
8 was making, so he would know what kind of percentage and he
9 was doing Philly a favor. At the same time it would make
10 Philly even more.

11 Q What does it mean, what portion of sport of percentage?

12 A He got to pay him an end, shakedown money and so, Charles
13 makes his living. That is how I make my living.

14 MR. BURLINGAME: Would it be all right if we took a
15 quick break?

16 THE COURT: Sure. Take ten please.

17 (Whereupon, the jury exited).

18 (Continued on next page)

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Alite-direct-Burlingame

3404

1 MR. BURLINGAME: I don't know how long you're
2 planning on going today. I'm feeling a little woozy. I could
3 probably make it for another half hour if you want to
4 continue?

5 THE COURT: All right. As soon as you find you
6 can't conveniently go on, we'll stop.

7 MR. BURLINGAME: Okay.

8 THE COURT: Just let me know.

9 MR. BURLINGAME: Thank you.

10 (Recess.)

11 (Witness enters courtroom.)

12 (Jury enters courtroom.)

13 THE COURT: Be seated, please.

14 CONTINUED DIRECT EXAMINATION

15 BY MR. BURLINGAME:

16 Q You testified earlier that the defendant was involved
17 with you in the robbery of a Sear's department store in
18 Vineland, New Jersey. How did it come to pass that you robbed
19 that particular Sear's?

20 A There was a guy that was around me, Steven Catalano. His
21 father ran the security at Sear's.

22 Q What was his father's name?

23 A George Lopez.

24 Q What did his father running the security at Sear's have
25 to do with you robbing the Sear's?

Alite-direct-Burlingame

3405

1 A Well, he was bookmaking with me. He said there was about
2 a half million at the end of a weekend, holiday weekend.

3 Q Who is he?

4 A George Lopez, I'm sorry.

5 Q The father was working security, was giving you
6 information about a potential robbery at Sear's?

7 A Correct. He wanted a percentage of it, obviously.

8 Q Did there come a time when you met with Lopez about the
9 robbery?

10 A Yes.

11 Q Where did that meeting take place?

12 A His house in Vineland, New Jersey. Then we went out to a
13 restaurant.

14 Q Who was present for that meeting?

15 A Steven Catalano, George Lopez, myself and Michael Malone,
16 I believe.

17 Q Did Lopez provide you with information about how to do
18 the robbery?

19 A Yes.

20 Q What did he tell you?

21 A He told us that he had the other guards that worked
22 there, he could send a couple of them out to lunch the hour we
23 come in. He told me he controls the cameras so the cameras
24 wouldn't catch the faces of the guys I send in. He said that
25 he calls the back count room. There were two women back there

Alite-direct-Burlingame

3406

1 working and that he had one of them that was in on it and he
2 would call the count room and they would open up.

3 Q What's the count room?

4 A Where they keep all the money.

5 Q Did he tell you when to do the robbery?

6 A Yeah, told me Labor Day weekend.

7 Q Did he tell you why Labor Day weekend would be a good
8 time to do the robbery?

9 A Labor Day sale, big money that weekend.

10 Q Did he say how much money would be this the count room?

11 A He told me about a half million.

12 Q Did you discuss the plan for the robbery?

13 A Yes.

14 Q Who came up with the plan?

15 A I did.

16 Q What was the plan?

17 A That we would go in saying we had counterfeit \$100 bills
18 in the area, send two guys in as Secret Service. They would
19 show them a hundred dollar bill by the window. George Lopez
20 would tell them to let him in, check money being passed
21 recently to see if there were any hundreds passed that were
22 counterfeit.

23 Q Where would they be letting the two fake Secret Service
24 agents into?

25 A That back count room.

Alite-direct-Burlingame

3407

1 Q How did that plan occur to?

2 A When I was in jail, '91, Secret Service came to me about
3 counterfeit hundreds. My ex-wife accidentally brought it to
4 the bank. They came to talk to me about it.

5 Q You thought that would be a good cover to get them back
6 in the count room?

7 A Yeah, because no one is going to question that, just like
8 I didn't question it. Nobody else is going to question it.

9 Q After the meeting, what did you do first?

10 A I went back to Ozone Park, Queens, spoke to Charles.

11 Q The defendant?

12 A Yes, tried to put the score on record, see if I get the
13 okay to go ahead with it.

14 Q Did he give you the okay to go ahead with it?

15 A Yeah.

16 Q Why did you need his okay?

17 A I wanted him to bring it to Junior and John Gotti and see
18 if it was okay and if it was okay, we do it.

19 Q Why would you need to put the robbery on record?

20 A Because first we're hitting a regular place, a store.
21 It's citizens, again, not street guys. If something goes
22 wrong, if somebody gets pinched, especially myself, it's going
23 to be related to the Gambino family. I need to put it on
24 record.

25 Q Why would your robbing a store with civilians make it

Alite-direct-Burlingame

3408

1 extra important to put on record?

2 A The Gambino family doesn't want to be involved with
3 something like that if somebody gets hurt and it falls on the
4 shoulders of the family which brings bad publicity.

5 Q You testified the defendant gave you permission to do the
6 robbery. After the defendant told you to go ahead with it,
7 did you put together a group to carry it out?

8 A Yes.

9 Q Who did you choose to be part of that group?

10 A Patsy Andriano, Kevin McMahon, Michael Malone, Kevin
11 Bonner, Steve Catalano, George Lopez and myself.

12 Q I'm showing you Government Exhibit 2-F F F F. Who is
13 that?

14 A Michael Malone.

15 Q I'm showing you 2-V V V V.

16 A My cousin, Patsy Andriano.

17 Q What is his real name?

18 A Patrick.

19 Q Did you assemble any equipment to do the robbery?

20 A Yes.

21 Q What?

22 A Radios, scanners, handcuffs, jackets and badges.

23 Q What were the purpose of the badges?

24 A To go in as police officers, Secret Service.

25 Q What's the purpose of the scanners and the radios?

Alite-direct-Burlingame

3409

1 A The scanners were for frequency in case something went
2 wrong, if somebody hits an alarm, calls for the police, we
3 have it over the scanner. We'll get out of there before they
4 show up.

5 Q What about the radios?

6 A Radios to contact each other, guys inside/outside, guys
7 watching the cars.

8 Q Where did the scanners and radios come from?

9 A Kevin McMahon, had some. I bought some other ones.

10 Q You testified before you didn't like Kevin McMahon. Why
11 did you bring him into the robbery?

12 A Because what I said before, he's good at this kind of
13 stuff. He's good operating those scanners, good operating
14 those radios. He knows how to work the police frequency and
15 he's a good driver.

16 Q In the days leading up to the robbery, did you meet with
17 McMahon to discuss it?

18 A Yes.

19 Q Where did you meet?

20 A His mother-in-law's house in Cape May.

21 Q Did you meet at night or during the day?

22 A No, during the day.

23 Q Who else was there?

24 A My children, Patsy Andriano, Mike Malone, Kevin Bonner.

25 Q How many children did you have?

Alite-direct-Burlingame

3410

1 A I brought my two boys. I have four kids.

2 Q What did you discuss that day at Kevin McMahon's
3 mother-in-law's house in Cape May, New Jersey?

4 A How we're going to do the robbery, who is going to do
5 what, where we go afterwards.

6 Q Who was assigned to do what?

7 A Me and Kevin were in the car driving, using the scanner.
8 Patsy and Andriano was going to drive two guys out that went
9 in which was Kevin Bonner and Michael Malone were going to go
10 in. Steven Catalano would work the parking lot, make sure
11 nobody else comes in, public people from outside trying to
12 jump in, if something went wrong and George Lopez was already
13 inside doing the security.

14 Q Who were going to be the two people who went in
15 pretending to be Secret Service agent?

16 A Michael Malone, Kevin Bonner.

17 Q Did the entire group that was going to participate in the
18 robbery meet immediately before?

19 A Yes.

20 Q Where?

21 A My house in Cherry Hill.

22 Q Did the group leave to go to the Sear's at some point?

23 A Yes.

24 Q How many cars were there?

25 A Two.

Alite-direct-Burlingame

3411

1 Q Whose car did you take?

2 A I took Kevin McMahon's and Patsy Andriano's Acura.

3 Q Do you remember what color his Acura was?

4 A Black.

5 Q Do you remember who went in which car?

6 A I believe me -- Kevin went in Kevin's car and Kevin
7 Bonner, Michael and Patsy went in Patsy's car. Steven
8 Catalano was already down in Vineland with his father.

9 Q Did you all reach the Sear's?

10 A Yes.

11 Q What did you do when you got there?

12 A We met outside one of the parking lots adjacent to the
13 Sear's, set everything up and set things in motion.

14 Q What happened when things were set in motion?

15 A Kevin and Michael went in.

16 Q Kevin and Michael, who are you talking about?

17 A Kevin Bonner and Michael Malone went in. Me and Kevin
18 McMahon stayed in the car and Patsy waited in the parking lot
19 for them to come back out. Steven Catalano was walking around
20 the parking lot.

21 Q Kevin McMahon stay in the car with you the whole time?

22 A Yeah -- no, sorry, he got out at one point. He walked
23 around inside the store and then he came back.

24 Q Did there come a time when Kevin Bonner and Michael
25 Malone came out of the Sear's?

Alite-direct-Burlingame

3412

1 A Yes.

2 Q What happened next?

3 A I told them to beep me at my house in Cherry Hill.

4 Q Did you talk to them?

5 A Yeah.

6 Q What did they tell you?

7 A They told me it didn't go well.

8 Q Did they tell you how much they got?

9 A They didn't know at that point. They said they got very
10 little.

11 Q Did they tell you why it didn't go well?

12 A Yeah, they said after a couple of seconds, the lady
13 slammed the safe shut with the money in it.

14 Q Did you all leave to go back to your house?

15 A Yes.

16 Q Who did you drive back with?

17 A Kevin McMahon.

18 Q When you got back to your house, did you discuss the
19 robbery further?

20 A Yes.

21 Q What was said?

22 A I just did a little yelling. I was mad at them, split up
23 the money, told them all to go home.

24 Q Did you figure out how much had been robbed?

25 A Yeah, it was about 25,000.

Alite-direct-Burlingame

3413

1 Q What happened to the money from the robbery after you
2 split it up?

3 A I gave Kevin Bonner about 3 or 4,000 and I gave the rest
4 of them approximately equal cuts; I tried to anyway. I gave
5 Kevin McMahon 2500 for Ronnie One Arm, 2500 for Charles. I
6 wasn't going back in the neighborhood. I was staying out in
7 Jersey.

8 Q Was the defendant there the day you robbed the Sear's?

9 A No.

10 Q Why would he get a \$2,500 cut?

11 A Because he put it on record for us. We got to give him a
12 piece.

13 Q What about Ronnie Truccio, why did he get a cut?

14 A Same thing, looked out for me and Ronnie, looked out over
15 the years, kind of partners. I just cut him in.

16 Q Who did you give the defendant's cut to?

17 A Kevin McMahon.

18 Q You testified you gave Kevin Bonner 3 or \$4,000. Why did
19 you give -- is that more or less than the other cuts?

20 A I gave him a little more than everybody else. He lives
21 in Fort Lauderdale, Florida. He had to fly in. I paid his
22 flight. Since it was more of a pain in the ass for him to
23 come in, I paid him a little extra.

24 Q What was your end?

25 A I didn't take anything.

Alite-direct-Burlingame

3414

1 Q Why not?

2 A I was mad. I didn't want pennies. I wanted big money.
3 I had money. I was doing well for myself. It didn't mean
4 anything to me, a couple of dollars.

5 Q Did you talk to the defendant about the robbery
6 afterward?

7 A Yes.

8 Q Was anyone else present?

9 A I believe Kevin McMahon was there.

10 Q About how long after the robbery did you talk to the
11 defendant about it?

12 A I believe it was the next day or two days at most.

13 Q When you had the conversation with the defendant, had he
14 already received his cut from the robbery?

15 A He wouldn't accept it from Kevin.

16 Q What happened when you saw him?

17 A I insisted he take it. He said he didn't need it because
18 he had that 35 dug from the Kennedy incident.

19 Q The \$35,000 he had buried in the backyard from the
20 robbery at Kennedy Airport where the guard was killed?

21 A Exactly.

22 Q You testified earlier that you had a meeting with George
23 Lopez in Vineland, New Jersey at the start of this to do the
24 initial planning. During the course of that meeting did you
25 find anything unusual out about George Lopez?

Alite-direct-Burlingame

3415

1 A Yeah. He's an ex-sheriff, ex-warden, bookmaker and
2 Spanish and he's -- the K K K guy. I don't know, so I
3 thought it was kind of odd him being Spanish and all that and
4 being an ex-sheriff, a warden on top of that. So, I thought
5 he was kind of mixed up with himself.

6 Q When you say he was a K K K guy --

7 A Like the chief. I don't know what they're called, grand
8 wizard. I don't know what it's called.

9 Q He said he had a high position in the Klu Klux Klan?

10 A He said he was the head guy.

11 Q Did you find --

12 A He went upstairs to get drinks, something. Down in his
13 basement, he had like a rack of clothes. I seen them on the
14 rack.

15 Q What?

16 A His clothes, his uniforms he wears for K K K, the hats
17 and the sheets, whatever the hell they were.

18 Q Did you ask him how he could be in the K K K with the
19 last name Lopez?

20 A Well, not really. First, I put on the outfit. I was
21 running around like a little kid on Halloween, saying "Boo,"
22 making fun of him.

23 Q How was that?

24 A His feelings were all hurt. I asked him about being
25 Spanish, K K K guy. I kept joking around, "What do you do,

Alite-direct-Burlingame

3416

1 throw a rope around a tree, hang yourself?" That was it.

2 Q Were you involved in another robbery with the defendant?

3 A Yes.

4 Q What did you rob?

5 A Papavero's Funeral Home.

6 Q How did you decide to rob that funeral home?

7 A It was a woman I know. Her husband's brother owns the
8 place. He's around Skinny Dom from the Gambino family. The
9 husband was beating her up, took her money and put it in at
10 that funeral parlor in the safe. She asked me if I could get
11 it.

12 Q Did she tell you how much money was in the safe?

13 A She said about 350-400,000 she knows, maybe more, jewelry
14 about 300,000.

15 Q What did you do after you learned about the money and
16 jewelry in the safe?

17 A I went and talked to Charles about it.

18 Q Why did you talk to Charles about it?

19 A Because I wanted him to talk to Skinny Dom. We were
20 going to go put it on record and do the heist.

21 Q What did the defendant say?

22 A He said "Don't worry about Skinny Dom, let's just go and
23 do it."

24 Q Was anyone else present for that conversation?

25 A I believe Kevin was.

Alite-direct-Burlingame

3417

1 Q Kevin McMahon?

2 A Yes.

3 Q Did you come up with a plan for the robbery?

4 A Yes.

5 Q What was the plan?

6 A We were going to send in Kevin McMahon. He was going to
7 go in and -- well, he did go in, say his grandmother passed
8 away; that he needed to make funeral arrangements.

9 Q What was the purpose that he was going to go do that?

10 A This way we could get in, get a look, the outline of what
11 goes on in that funeral parlor, where the safe is. She
12 explained it to me. We needed someone down there to actually
13 see the rooms, see if there's any alarms, see if there's any
14 security down there and we needed to get somebody inside.

15 Q When he went in, is that when the robbery was going to
16 take place?

17 A No, not at all.

18 Q What was the plan for when the robbery would take place?

19 A The plan for the robbery was to get him there on a Sunday
20 when it's closed, make him open it up so there's no alarm.
21 The door would be open. He will be downstairs. There would
22 be no workers in. There's no security, nobody around at all.
23 Nobody would stumble in on the crime.

24 Q Who is the "he?"

25 A The owner of Papavero's.

Alite-direct-Burlingame

3418

1 Q Did McMahon meet with the owner?

2 A Yes.

3 Q What day of the week did he meet with him on?

4 A I believe it was a Thursday.

5 Q What happened at the meeting?

6 A We pressed him to get him to come Sunday. We wanted to
7 do it quick before something got moved, the money or the
8 jewelry got moved.

9 Q You say you pressed him. You're talking about who?

10 A The owner, Papavero's, she just passed away, trying to
11 rush him to open Sunday when he's closed.

12 Q Who was trying to convince the owner to open Sunday?

13 A Kevin McMahon.

14 Q You say "We." You weren't actually there with him?

15 A No, I was in on the plan.

16 Q Did you take any steps to examine the funeral home before
17 the robbery?

18 A Yeah, when the place was closed we went out to see if
19 there's alarms on the doors and stuff.

20 Q Who is "We"?

21 A Me, Charles, Kevin, my cousin Patsy and I believe Kevin
22 Bonner was with us.

23 Q Did the robbery take place?

24 A The day we checked out to see the alarms or anything?

25 Q Did the robbery eventually take place?

Alite-direct-Burlingame

3419

1 A Yes, Sunday.

2 Q When did the checking take place, happen in relation to
3 the robbery taking place?

4 A That same Thursday night when Kevin first seen him. We
5 waited until he left and closed.

6 Q You said the robbery took place on a Sunday. Who
7 participated in the robbery?

8 A This kid Assante. I don't remember his first name, Patsy
9 Andriano, myself, Kevin Bonner, Kevin McMahon.

10 Q Was the defendant there on the day of the robbery?

11 A I don't recall him being there. I don't know.

12 Q Who did what on the day of the robbery?

13 A The day of the robbery, me and Kevin McMahon were working
14 the radios again in Kevin's car. Patsy was sitting in another
15 car waiting for Kevin Bonner to come back up with Assante so
16 they could leave.

17 Q Who went down to the funeral home?

18 A Kevin Bonner and this kid Assante.

19 Q Could you tell what was going on in the funeral home
20 during the robbery?

21 A No, they were taking too long.

22 Q Did Kevin Bonner and Assante come out of the funeral
23 parlor?

24 A No, I sent Kevin McMahon in. Then they came out.

25 Q When they came out, how did they come out?

Alite-direct-Burlingame

3420

1 A Running.

2 Q Do you know why?

3 A Yeah, the guy got loose and he hit a fire alarm.

4 Q What happened after the robbery?

5 A We went back to meet with Charles, tell him they screwed
6 up, didn't go.

7 Q Do you remember where you met him?

8 A No, I don't remember.

9 Q Do you remember who was there?

10 A I know it was me and Kevin but I don't remember if my
11 cousin Patsy was there or Kevin Bonner.

12 Q You testified the robbery was not a success?

13 A Yes, it wasn't a success, no.

14 Q Again, why was that?

15 A The guy got loose, hit a fire alarm.

16 Q Do you know an individual named Hunter Adams?

17 A Yes.

18 MR. BURLINGAME: Judge, this is a long section if
19 you would like to break?

20 THE COURT: Be here at 9:30 tomorrow, please. Good
21 night.

22 (Jury Leaves courtroom.)

23 THE COURT: 9:00 o'clock tomorrow if that's
24 acceptable.

25 MR. FARBER: Thank you.

Alite-direct-Burlingame

3421

1 MR. SHARKEY: There's one issue. Do you want to do
2 it now or tomorrow morning?

3 THE COURT: I'll do it now if the government is up
4 to it.

5 MR. SHARKEY: The court had on the defense motion,
6 the court had --

7 THE COURT: Sit down, everybody, if you want to
8 stay.

9 MR. SHARKEY: The court had precluded evidence on
10 two racketeering acts in which the defendant is not named.
11 The government is seeking to introduce -- well, this is
12 Mr. Norris' motion. Our position is -- withdrawn.

13 They're seeking to introduce some evidence on those
14 two acts that have been precluded where he's not named nor is
15 he part of it. Mr. Norris had requested that defense counsel
16 sign a stipulation for certain aspects of that evidence. Our
17 position is it doesn't come in at all, not relevant, been
18 excluded.

19 Am I characterizing it fairly? You want to raise
20 something with the court about this?

21 MR. NORRIS: Yes. To be clear, we already elicited
22 the testimony with respect to three racketeering acts your
23 Honor dismissed, elicited testimony from the cooperators
24 relating to those acts. All three are within the limitations
25 period.

Alite-direct-Burlingame

3422

1 With respect to two of them, the testimony was quite
2 clear they were within the limitations period; one, the
3 Mugnolo shooting. Multiple witnesses testified about that
4 shooting. They don't know the precise date, May 4th, 2003.
5 We wouldn't involve the court in stipulations. I asked
6 counsel if they would sign a stipulation saying Mugnolo was
7 shot at his house at the address, May 4th, 2003 and if they're
8 agreeable, that there was a church on that same street listing
9 the address. That's it. That was to save us from having to
10 burden the jury and the court with calling witnesses to
11 testify to those facts.

12 The point was simply to establish the date and to
13 make a point we were trying to make in having them in the
14 indictment initially.

15 THE COURT: Within the limitation period?

16 MR. NORRIS: Yes. The testimony is in. Our
17 position, as the court knows, it's relevant to the broader
18 racketeering conspiracy. It's relevant to the continuation of
19 that conspiracy.

20 THE COURT: The date has not yet been established?

21 MR. NORRIS: Witnesses dont know with precision;
22 you say 2003, 2002.

23 THE COURT: What is the new evidence going to show,
24 establish it with precision?

25 MR. NORRIS: The stipulation I asked counsel to

Alite-direct-Burlingame

3423

1 sign -- we can call witnesses as well. This came up
2 because --

3 THE COURT: If the defendant doesn't want to sign a
4 stipulation, if it's of importance on the statute of
5 limitations point, you can bring in those witnesses.

6 MR. SHARKEY: We will not sign the stipulation.
7 Our position had been the court had excluded this testimony.
8 It was fully litigated before. Counsel has objected when that
9 issue had come up. I think Mr. Norris is trying to see if the
10 court would allow it to come in. We will not be stipulating
11 to that.

12 THE COURT: It is in. The only question is the
13 date. Dates are important during this period because of the
14 statute of limitations. The government's position, as I
15 understand it, having once been made a member, he continues to
16 be a member until, for some reason, he is excluded or dropped
17 from the gang. There's no proof he's done that, but it's
18 perfectly understandable the government wants to tie this
19 issue down. I'll permit it.

20 MR. NORRIS: While we're on the subject of
21 stipulations, there's one other issue we had raised with
22 counsel, whether they would be amenable to signing a
23 stipulation that a concert happened at Yankee Stadium at a
24 certain date.

25 THE COURT: What?

3424

1 MR. NORRIS: Rock concert at Yankee Stadium a
2 certain date, doesn't relate to the statute of limitations,
3 simply corroboration evidence from another witness. They
4 indicated they wouldn't; that's fine. The question is simply
5 whether the court would take judicial notice.

6 THE COURT: I'll take judicial notice if you supply
7 a newspaper.

8 MR. NORRIS: Newspaper article?

9 THE COURT: A record like the New York Times?

10 MR. NORRIS: We have such an article. Thank you.

11 THE COURT: And if you don't want that, you can
12 brief it. We could take notice of the fact rock concerts are
13 of great importance in the city and not everybody in the city
14 knows when they occur at Yankee Stadium. Thank you.

15 (Whereupon this matter concluded for this date.)

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3425

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9	CROSS-EXAMINATION .	3236	10
10	BY MS. SHARKEY:		
11	RECROSS EXAMINATION	3243	18
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15	BY MR. NORRIS:		
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17	DIRECT EXAMINATION	3272	21
18	DIRECT EXAMINATION	3334	1
19	BY MR. BURLINGAME:		
20	DIRECT EXAMINATION (Cont'd)	3343	19
21	BY MR. BURLINGAME		
22	DIRECT EXAMINATION (Cont'd)	3384	1
23	BY MR. BURLINGAME:		
24			
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3	105 D	3192	10
4	105 H	3192	25
5	105 F	3193	17
6	Government Exhibit 118	3212	1
7	Government Exhibit 106-B	3213	19
8	Government Exhibit 106-A	3214	10
9	Government Exhibit 40-H	3227	1
10	Government Exhibit 40-G	3227	16
11	Government Exhibits 40-F and 40-E	3228	6
12	Government Exhibit 40-I	3228	22
13	Government Exhibit 40-C	3229	12
14	Defendant Exhibit M	3242	6
15	302, 302-A, 303 and 303-A	3265	16
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